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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CAL/EPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

MONDAY, JULY 10, 2006

10:00 A.M.

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CERTIFIED SHORTHAND REPORTER
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chair

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBER ALSO PRESENT

Ms. Margo Reid Brown

Mr. Jeff Danzinger

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Michael Bledsoe, Staff Counsel

Mr. Elliot Block, Staff Counsel

Mr. Richard Castle, Staff

Mr. Mark de Bie, Branch Manager, Permitting & Inspection
Branch

Mr. Tadese Gebre-Hawariat, Staff

Mr. Howard Levenson, Deputy Director, Permitting &
Enforcement Division

Ms. Selma Lindrud, Executive Assistant

Ms. Dianne Ohiosumua, Staff

Ms. Geralda Stryker, Supervisor, South Central Section

Mr. Scott Walker, Branch Manager, Remediation, Closure, &
Technical Services Branch

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Alan Abs, Rural Counties ESJPA

Mr. Peter Anderson, Executive Director, Center for
Competitive Waste Industry

Mr. Robert Henry, General Manager, Chemical Waste
Management Kettleman Hills

Mr. George Larson, Waste Management

Ms. Mary Matava, Agri Services, Inc.

Ms. Pam Raptis, LEA, San Diego

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone. And
3 welcome to the August P&E Permitting and Enforcement
4 Committee meeting. We have agendas that are on the back
5 table. And if anyone would like to speak to a particular
6 item, please fill out a speaker's form, bring it up to
7 Selma here up front. Selma is helping us out today
8 because Donnell is out. And you will have an opportunity
9 to address our Committee.

10 Also I would like to ask everyone to please
11 either turn off or put in the silent mode your cell phones
12 or pagers.

13 Before I get started, I want to introduce
14 someone. I have a new advisor, my advisor, Rachel Hanson.
15 Stand up. Rachel comes to us from CH2M Hill, and has an
16 extensive background in landfill management projects as
17 well as composting. And she is a great addition to our
18 team here at the Integrated Waste Management Board. So I
19 hope you all have an opportunity to talk to Rachel over
20 the next few weeks and get to know her.

21 So with that, Selma, would you please call the
22 roll?

23 EXECUTIVE ASSISTANT LINDRUD: Member Peace?

24 COMMITTEE MEMBER PEACE: Here.

25 EXECUTIVE ASSISTANT LINDRUD: Member Wiggins?

1 COMMITTEE MEMBER WIGGINS: Here.

2 EXECUTIVE ASSISTANT LINDRUD: Chair Mulé?

3 CHAIRPERSON MULÉ: Here.

4 Also I'd like to thank Board Member Danzinger for
5 being here today, as well as our Board Chair Brown. Thank
6 you for being here today. We have some items that I'm
7 glad you're going to be here to hear as well.

8 Members, do we have any ex partes?

9 COMMITTEE MEMBER PEACE: I'm up to date.

10 COMMITTEE MEMBER WIGGINS: I'm up to date.

11 CHAIRPERSON MULÉ: I'm up to date as well.

12 And with that, Mr. Levenson, would you like to
13 provide us with your Deputy Director's report? Thank you.

14 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
15 Chair. And good morning, Board members. I'm Howard
16 Levenson, Deputy Director for Permitting and Enforcement
17 Division.

18 I have a couple items I'd like to update you on.
19 First of all, proposed Rule 410 from the South Coast Air
20 Quality Management District, as you'll recall last year
21 the district proposed a fairly prescriptive requirement to
22 control odors at transfer stations and material recovery
23 facilities. In most cases, this would have required
24 enclosure and additional ventilation of both existing
25 facilities and any expansions or new planned facilities.

1 While we recognize that odors of these facilities
2 can be a problem, both CIWMB staff and industry
3 representatives felt that the proposed approach was too
4 prescriptive and didn't provide enough flexibility to
5 address site specific differences. So we did propose as
6 staff an alternative approach in which operators would
7 voluntarily submit an odor management plan to the LEA.
8 The LEA would enforce the design and operational aspects
9 of that alternative plan and work with operators to revise
10 them as needed. And then the South Coast staff would
11 still have enforcement capability under their existing
12 rule, such as Rule 402 such as nuisance and odor issues.

13 South Coast staff held a working group meeting on
14 May 18th with all stakeholders to discuss their latest
15 thinking which included two different pathways. One was
16 approval by the South Coast of a rule -- what we're
17 calling a Rule 410 odor management plan which met detailed
18 requirements the South Coast was proposing or an exemption
19 pathway in which an operator could obtain LEA approval of
20 a voluntarily submitted plan. Kind of the approach that
21 the Waste Board was proposing.

22 At that meeting in May, both stakeholders and
23 Waste Board staff raised some questions about double
24 jeopardy. There was a chance that both the district and
25 LEAs might be taking enforcement actions on the same

1 violations at a facility.

2 We've had a couple of conference calls among the
3 regulatory agencies since then, and South Coast staff have
4 discussed some of their ideas on how to avoid this. They
5 are planning to hold an additional all-parties working
6 group meeting sometime in the next couple of weeks. They
7 then plan to go before the Stationary Source Committee on
8 July 28th to report on the status of the rule and to set a
9 specific date, perhaps in September, for adoption of the
10 proposed rule by their governing board. We'll be
11 providing an update on this through the Executive
12 Director's report at the Board meeting next week, and any
13 more details will be included in that. But I just wanted
14 to let you know that is in process and approaching a
15 somewhat critical decision point.

16 Couple of updates just on legislation. Wanted to
17 note that SB 1305 by -- which is on the management of
18 home-generated sharps to keep them out of the waste stream
19 has been passed and is on the Governor's desk. This is an
20 issue we've been tracking for some time. And if it is
21 signed, we will be charged with providing training to
22 LEAs, outreach to the public, and general information on
23 our website regarding proper management. So certainly our
24 Legislative Director will be keeping you informed of the
25 status of that.

1 Also one thing that the Permitting and
2 Enforcement Division has been tracking is AB 2211 which
3 would clarify certain aspects of the solid waste cleanup
4 program, including the authority to conduct storm-related
5 trash water projects and for local jurisdictions to
6 provide partial matching grants instead of the current
7 50/50 matches. We're planning to open up the regulations
8 for the solid waste cleanup this fall to do a variety of
9 cleanups and revisions, but we're waiting until we find
10 the final disposition of this bill before we start that
11 process.

12 Next month, we have a busy month as well. Just
13 in terms of what's coming to the Committee, we have
14 cleanup projects for the Solid Waste Cleanup Program, two
15 involving tribal cleanups, one with the Campo Reservation,
16 and one with Torres-Martinez Reservation. These are major
17 cleanup projects, quite complicated in terms of land
18 ownership, site access, enforcement capabilities, and so
19 on. We have a grant for the city of Fillmore. And we
20 have a number of anticipated grants -- I mean permits:
21 Sunland Garden Products in Monterey, Salton City Transfer
22 Station in Imperial, Pena Transfer Station in Tulare, and
23 several others.

24 Also in August at the full Board, we will be
25 bringing an item on the emerging technologies forum, a

1 summary of what we learned from that and kind of a summary
2 of the history of emerging technologies, lessons we
3 gleaned, and particularly discussion of what we see as
4 remaining barriers and next steps for your consideration
5 in that arena.

6 And last but not least, we have our annual Waste
7 Board LEA conference right around the corner August 1st to
8 3rd in Monterey. I hope that all of you will be able to
9 attend that. And I know some of you have already
10 committed to doing that. We have a lot of good
11 information that's going to be available on that. Kind of
12 a nautical theme: Navigating the Seas of Illegal Dumping;
13 Through the Spyglass, which is an overview of surveillance
14 cameras and enforcement. Some of these I don't know how
15 staff comes up with them. But Tides of Calamity:
16 Disaster Planning; Shark Bites and other Fish Tails. This
17 is enforcement, load checking, and waste recycling. And
18 it goes on and on.

19 CHAIRPERSON MULÉ: That sounds like Sharon and
20 Mindy, they're creative minds at work.

21 DEPUTY DIRECTOR LEVENSON: And Dennis and a few
22 others. There are some very creative folks there.

23 But it's going to be a great conference. There's
24 concurrent sessions. We're really packed. We have a lot
25 of presentations by LEAs.

1 We also have tire related sessions in conjunction
2 with our Special Waste Division on the tire enforcement
3 and other issues. So it's going to be a great conference.

4 With that, I'll close my Deputy Director's report
5 and be happy to answer any questions.

6 CHAIRPERSON MULÉ: Thank you, Howard. That was a
7 great overview.

8 Do we have any questions? Great. All right.

9 Let's move forward to our agenda items. Our
10 first one is Committee Item B, Board Agenda Item 10,
11 Howard.

12 DEPUTY DIRECTOR LEVENSON: This item is
13 Consideration of a Revised Full Solid Waste Facilities
14 Permit/Transfer Processing Station for the Sheep Creek
15 Transfer Station in San Bernardino County. And Dianne
16 Ohiosumua will make that presentation from the dais, from
17 the podium there.

18 MS. OHIOSUMUA: Good morning.

19 CHAIRPERSON MULÉ: Good morning.

20 MS. OHIOSUMUA: The Sheep Creek Transfer Station
21 is located in Phelan on Buckwheat Road. It is owned and
22 operated by the County of San Bernardino Solid Waste
23 Management Division.

24 The proposed permit will allow an increase in
25 maximum tonnage from 198 to 600 tons per day. It will

1 also allow an increase in transfer truck volume from eight
2 to 25 loads per day.

3 The LEA has certified that the application
4 package is complete and correct, that the transfer
5 processing report meets the requirements.

6 When the item was written, Board staff was
7 reviewing the CEQA document and had not conducted the
8 pre-permit inspection. The pre-permit inspection and a
9 follow-up inspection have been conducted, and there was
10 some issues, but they have now been resolved. The CEQA
11 issues have also been resolved. A revised item to reflect
12 these new findings will be available sometime today.

13 Board staff has determined that all of the
14 requirements have been met, and staff recommends that the
15 Board adopt the Solid Waste Facility Permit on decision
16 number 2006-123 concurring with the issuance of Solid
17 Waste Facility Permit Number 36-AA-0382. Representatives
18 from San Bernardino County LEA and the operator are here
19 to answer any questions that you may have at this time.

20 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I can
21 add on. For the Resolution, we will have a revised
22 Resolution in the BAWDS system later today that will
23 reflect recommendation for concurrence in the item. So
24 that will be Revised Resolution.

25 CHAIRPERSON MULÉ: As well as the revised item.

1 DEPUTY DIRECTOR LEVENSON: Correct.

2 CHAIRPERSON MULÉ: Okay. First of all, does any
3 of the Committee members or any of the other Board members
4 have any questions on this one?

5 COMMITTEE MEMBER PEACE: Just a couple. I would
6 like to thank the operator and LEA for giving our staff
7 the 60 days they need to do their job to review the
8 revision to make sure that the public health and safety
9 and the environment are protected. I appreciate that.

10 I guess what caught my eye was when they said
11 staff was still evaluating the adequacy of the 2006
12 addendum that supports the Board's actions. I guess that
13 concerns me, just because the neg dec is almost ten years
14 old, and the original tonnage was 65 tons a day and now
15 it's up to 600. And the traffic went from 460 vehicles a
16 day to 600. So you're saying staff has looked at that
17 carefully, and we still feel like the neg dec covers the
18 additional tonnage and additional traffic.

19 MS. OHIOSUMUA: Mark de Bie will address those
20 comments.

21 BRANCH MANAGER DE BIE: Thank you, Dianne.

22 Mark de Bie with Permitting and Inspection.

23 Yes, we looked very critically at that addendum.
24 In fact, through dialogue with the LEA and the operator
25 the addendum was revised to add additional information

1 relative to the situation at the site. We had staff,
2 Dianne as well as myself, visit the site to verify the
3 facts. And we believe that the '97 neg dec with the 2006
4 addendum is adequate to support the Board's action on this
5 item.

6 COMMITTEE MEMBER PEACE: Thank you.

7 And Dianne mentioned, there was a problem when
8 they went to do the pre-permit inspection. Can you tell
9 me what those problems were that have been corrected?

10 MS. OHIOSUMUA: We sited a violation for the
11 vector control and also station maintenance. However,
12 those issues have been resolved at this time.

13 COMMITTEE MEMBER PEACE: Thank you.

14 CHAIRPERSON MULÉ: And I had basically the same
15 question that Board Member Peace had about the CEQA
16 document for the neg dec being from 1997. And also you
17 said there were some CEQA issues that have been resolved.

18 MS. OHIOSUMUA: That was the CEQA issue.

19 CHAIRPERSON MULÉ: So both of those. And you're
20 comfortable with that? You're comfortable with the vector
21 issue? I'm asking because I'm going to go out there on
22 Thursday. So I just want to make sure that everything is
23 the way it should be. I don't want to come back with a
24 negative report to staff.

25 BRANCH MANAGER DE BIE: I'll speak for Dianne a

1 little bit, and she can add details.

2 My understanding is when staff did the initial
3 pre-permit inspection, the compactor, which is key to the
4 operation, had broken down for a number of days and was
5 being repaired. And because of that, there was a backlog
6 more than usual of waste. And that contributed to some of
7 the vector issues that were observed. And that's why two
8 violations were noted by Dianne relative to maintenance
9 and then the vector issues.

10 Dianne went back on Thursday last week and noted
11 that they were now in compliance, that they had rectified
12 the issues. So hopefully when you go out, you won't get
13 flies collecting on you.

14 CHAIRPERSON MULÉ: Or any other critters.

15 MS. OHIOSUMUA: I would like to add the operator
16 is in the process of -- the operator has scheduled some
17 repairs for the compactor. But it's going to involve them
18 shutting down the facility. But they've scheduled it, and
19 it should be occurring next week. So that's why we feel
20 those things have been resolved.

21 CHAIRPERSON MULÉ: Thank you, Diane.

22 COMMITTEE MEMBER PEACE: One more thing. When
23 you said there was a violation for vector control, I
24 notice in 2003 they had an exemption for an increase in
25 the waste holding time from 48 hours to 72 hours. Is that

1 pretty much normal then, 72-hour holding time normal?

2 MS. OHIOSUMUA: The LEA has approved a 72-hour
3 holding time.

4 COMMITTEE MEMBER PEACE: But in terms of our
5 other transfer stations, is 72 hours standard?

6 MS. OHIOSUMUA: Our standard says 48 hours or
7 they can change it with approval of the LEA.

8 COMMITTEE MEMBER PEACE: They have longer than
9 average holding time. Could that contribute to vector
10 problems when you have a longer than average holding time?

11 MS. OHIOSUMUA: I did not find that as being a
12 violation of the holding time.

13 BRANCH MANAGER DE BIE: It can, and that was some
14 of the discussion we had with the LEA and the operator
15 associated with this increase in tonnage, should they look
16 again at the holding time of 72 hours. Based on the
17 discussions, there were a tightening up on the criteria
18 that are in place relative to that holding time. So
19 basically, it's now set up where if the LEA observes some
20 issues relative to vectors, odors, dust, etc., they can
21 require that the operator remove the waste more frequently
22 than 72 hours. So it's a little tighter than it was in
23 the current permit. The current permit just said the LEA
24 could advise the operator to reduce the time the waste is
25 on site. Now, it's a little firmer that the operator will

1 actually follow through on that.

2 DEPUTY DIRECTOR LEVENSON: Madam Chair, just one
3 further clarification regarding the age of the CEQA
4 document. We are satisfied, as Mark and Dianne explained,
5 with the technical addendum at this point. But we have
6 had discussions with the LEA that should there be
7 subsequent expansions or changes in the project, it's our
8 recommendation that new environmental documents are
9 needed.

10 CHAIRPERSON MULÉ: Thank you.

11 COMMITTEE MEMBER PEACE: Good recommendation.

12 CHAIRPERSON MULÉ: I agree. I think that's a
13 good recommendation.

14 Do I have a motion again -- as Howard mentioned,
15 the Revised Resolution and revised agenda item will be in
16 BAWDS later today.

17 COMMITTEE MEMBER PEACE: I'd like to move
18 Resolution Number 2006-123 Revised for concurrence.

19 COMMITTEE MEMBER WIGGINS: Second.

20 CHAIRPERSON MULÉ: We have a motion by Board
21 Member Peace and seconded by Board Member Wiggins.

22 Selma, would you please call the roll?

23 EXECUTIVE ASSISTANT LINDRUD: Member Peace?

24 COMMITTEE MEMBER PEACE: Aye.

25 EXECUTIVE ASSISTANT LINDRUD: Member Wiggins?

1 COMMITTEE MEMBER WIGGINS: Aye.

2 EXECUTIVE ASSISTANT LINDRUD: Chair Mulé?

3 CHAIRPERSON MULÉ: Aye.

4 That passes unanimously, and we'll put that on
5 the consent agenda.

6 Our next item is Committee Item C, Board Agenda
7 Item 11. Howard.

8 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
9 Chair.

10 This item is Consideration of a New Full Solid
11 Waste Facilities Permit for Compostable Materials Handling
12 Facility for the El Corazon Composting Facility in San
13 Diego County. Making this presentation will be Tad
14 Gebre-Hawariat.

15 CHAIRPERSON MULÉ: Good morning, Tad.

16 MR. GEBRE-HAWARIAT: Good morning. El Corazon is
17 an existing green waste materials composting facility.
18 The facility is located on 14 acres, and composting is
19 done by the process of windrow grids. The facility is
20 permitted to receive up to 200 tons of material per day at
21 a design capacity of 20,000 cubic yards.

22 As we have indicated in the table on page 11-3 of
23 the agenda item, all of the requirements for the new
24 proposed permit have been met. Therefore, staff
25 recommends that the Board adopt Resolution Number 2006-124

1 concurring with the issuance of solid waste facility
2 permit number 37-AA-0907.

3 Ms. Pam Raptis, the LEA, and Ms. Mary Matava, the
4 owner of the facility, are here to answer any questions
5 you may have.

6 CHAIRPERSON MULÉ: Thank you, Tad.

7 Are there any questions?

8 COMMITTEE MEMBER PEACE: No questions. Just a
9 comment. I usually don't agree with the LEAs when they
10 say they didn't need an AB 1497 hearing. But in this
11 case, I agree with the LEA they did not need a hearing,
12 because even though this was a permit for an existing
13 facility, there was no change in operation.

14 CHAIRPERSON MULÉ: Any questions from anyone
15 else?

16 I don't know if either the LEA or operator wants
17 to say anything, Mary, Pam. Thank you for being here.

18 MS. RAPTIS: Just to justify the trip. Pam Rapis
19 with the County of San Diego Local Enforcement Agency.

20 I'd like to thank you for the consideration of
21 this permit. Indeed, there was no operational change.
22 This occurred as the regulations have changed. This
23 facility remains in good compliance with all of those
24 regulations. And the City of Oceanside has been very
25 supportive of this facility and this new permit. We look

1 forward to next week for the full hearing and concurrence
2 at that time so we can issue this permit. Thank you very
3 much.

4 CHAIRPERSON MULÉ: Thank you, Pam.

5 And I just want to say a few words. I did have
6 an opportunity to go to the site I guess it was almost
7 two years ago. It was a long time ago. But I have to say
8 you run a great operation, Mary. And here they are in the
9 middle of a rapidly growing area in Southern California,
10 and you're operating a great facility and really doing
11 those surrounding communities a great service by not only
12 processing their material but finding viable markets for
13 those materials. So if you just want to say a few words.

14 MS. MATAVA: Thank you. As you work more on your
15 market development programs for organics, our mantra is
16 you can't have too much compost. So we'd like you to keep
17 that in mind, number one.

18 And number two, we'll be coming to you again in
19 the next few months probably within the next six months
20 with actually a move that the facility is planning to
21 another piece of the property, the El Corazon property.
22 And spent a considerable amount of time and money and
23 effort looking at odor control methods, and we're
24 currently working with AG Gore and Munich to come up with
25 a system that is about a tenth of the cost of enclosing

1 facilities, but it still is \$6 million for a facility our
2 size. But if we want to stay in business, we do need to
3 be addressing the odors better.

4 And even though I've been one of the most vocal
5 opponents of Rule 1133 and went to all the meetings, you
6 know, it did really spur our facility, our company to take
7 a real hard look at what kinds of odors we were producing.
8 Not only that, but the amount of VOCs we are producing.
9 We really do want to be a green industry and feel these
10 moves will not only result in diversion but also result in
11 better management, being better neighbors, and also being
12 a greener business. So thank you.

13 CHAIRPERSON MULÉ: Well, thank you for all your
14 efforts, Mary.

15 Do I have a motion?

16 COMMITTEE MEMBER PEACE: I'd like to move
17 Resolution Number 2006-124.

18 COMMITTEE MEMBER WIGGINS: Second.

19 CHAIRPERSON MULÉ: We have a motion by Board
20 Member Peace, seconded by Board Member Wiggins.

21 Selma, call the roll.

22 EXECUTIVE ASSISTANT LINDRUD: Member Peace?

23 COMMITTEE MEMBER PEACE: Aye.

24 EXECUTIVE ASSISTANT LINDRUD: Member Wiggins?

25 COMMITTEE MEMBER WIGGINS: Aye.

1 EXECUTIVE ASSISTANT LINDRUD: Member Mulé?

2 CHAIRPERSON MULÉ: Aye.

3 So that passes unanimously. We'll put that on
4 the consent agenda for next week as well. Thank you.

5 Our next item is Committee Item D, Board Agenda
6 Item 12, Howard.

7 DEPUTY DIRECTOR LEVENSON: Thank you again, Madam
8 Chair.

9 This is Consideration of a Revised Full Solid
10 Waste Facilities Permit for Chemical Waste Management,
11 Inc., Kettleman Hills Facility in Kings County.

12 The Kettleman Hills Facility represents a rather
13 unique situation for a couple of reasons, as Gerri Stryker
14 will explain in a little bit more detail. First, around
15 the facility, which is the actual subject of this item and
16 your consideration, are a series of differently permitted
17 operations, including a Class I facility that can accept
18 hazardous and what is known as California designated
19 waste, and a Class II, Class III facility that can accept
20 both California designated waste and municipal solid
21 waste. We'll explain those distinctions a little bit
22 more. So it's a complex site with lots of different
23 operations.

24 Second, the proposed revised permit would allow
25 for part of the landfill to be operated as a bioreactor

1 unit in which liquids and high moisture waste are used to
2 accelerate the decomposition of the waste. This
3 bioreactor operation is the first one to come to the Board
4 under what is called the Research Development and
5 Demonstration, or RD&D permits for municipal solid waste
6 landfills. Regulations that allow those kinds of units
7 and variances from the existing Subtitle D regulations as
8 long as they maintain the same environmental standards
9 were promulgated by U.S. EPA in March of 2004. The Board
10 adopted conforming regulations that became effective in
11 late September in 2005. U.S. EPA still has to approve
12 those conforming regulations before Kettleman Hills can
13 actually begin operating as a bioreactor facility, but it
14 does not preclude them from obtaining the permit to do so.

15 So with that, let me note we did receive a letter
16 which I forwarded to all of you this morning, a fax from
17 Erica Swinney of Greenaction. I think there's copies on
18 the back. You should all have a copy of that.

19 Very briefly, the letter focuses primarily on the
20 inability of citizens of Kettleman City to attend this
21 meeting in Sacramento and requests -- not quite the
22 language that was in the letter -- but requests any
23 decision about the permit not be made until a meeting can
24 be scheduled with Spanish translation in Kettleman City.
25 The letter does go on to cite a scorecard regarding the

1 Chem Waste facility. That scorecard refers to information
2 that is publicly available from U.S. EPA from the toxics
3 release inventory, which is a national database that has
4 emissions -- annually reported emissions data from
5 Subtitle C hazardous waste facilities. There's nothing we
6 have seen in the letter that is specific to the proposed
7 permits consistency with our regulatory requirements.

8 So with that, I will turn it over to Gerri. We
9 have kind of a three-ring or three-part presentation I
10 think. She'll explain that and go on. This is Gerri
11 Stryker from Permitting and Enforcement.

12 CHAIRPERSON MULÉ: Board Member Peace has a
13 question.

14 COMMITTEE MEMBER PEACE: When you said something
15 about federal regulations have to come first before they
16 would still be allowed to do this.

17 DEPUTY DIRECTOR LEVENSON: We will come to this
18 more in the presentation in terms of the regulations, but
19 it's true that we had to conform our regulations with U.S.
20 EPA's, which we did. They still have to approve that as
21 part of their authorizing us to be a Subtitle D
22 implementing state.

23 CHAIRPERSON MULÉ: Board Member Wiggins.

24 COMMITTEE MEMBER WIGGINS: Was there a meeting in
25 Kettleman City? I thought there was.

1 DEPUTY DIRECTOR LEVENSON: There have been a
2 number of local meetings in Kettleman City. Nothing that
3 the Board has held in Kettleman City.

4 COMMITTEE MEMBER WIGGINS: But it was about this
5 issue, and the operator was part of this?

6 DEPUTY DIRECTOR LEVENSON: Yes. And we can ask
7 the operator to explain -- both the LEA and the operator
8 to explain the nature of the different hearings and the
9 various public outreach activities they've conducted.

10 COMMITTEE MEMBER WIGGINS: Did they have a
11 Spanish translation?

12 DEPUTY DIRECTOR LEVENSON: You have to ask them.

13 CHAIRPERSON MULÉ: I think we'll get all that
14 information.

15 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: I
16 think that's part of the presentation.

17 CHAIRPERSON MULÉ: When the operator gets up and
18 makes their presentation, I think we'll be able to hear --
19 we can ask them. I believe they did, but --

20 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: I
21 believe they did.

22 COMMITTEE MEMBER WIGGINS: But you also touched
23 on -- and I don't know if they're going to talk about
24 this -- the pollution that was referred to in the letter
25 from Greenaction. And because they said it was number one

1 in California. What did you say about that?

2 DEPUTY DIRECTOR LEVENSON: Well, that information
3 comes from what is known as toxics release inventory,
4 which is a database maintained by U.S. Environmental
5 Protection Agency. And every year, various industrial
6 facilities that fall under the framework for that are
7 required to report their releases of certain toxic
8 pollutants to the atmosphere and I believe to ground
9 water. I'm not positive on that. So that information is
10 compiled every year by U.S. EPA and is made publicly
11 available.

12 This particular information that is in that
13 scorecard so far as I understand is in reference to the
14 hazardous waste facilities at the site, not to the Class
15 III landfill that is subject to this permit. But we could
16 ask the operator to verify that as well.

17 COMMITTEE MEMBER WIGGINS: And is part of the
18 emissions from trucks rather than the hazardous waste
19 landfill?

20 DEPUTY DIRECTOR LEVENSON: Member Wiggins, I'm
21 not intimately familiar with the toxics release inventory.
22 I think the operator might be able to explain that. And
23 we certainly can do more research prior to the Board
24 meeting to answer that question if you need it.

25 COMMITTEE MEMBER WIGGINS: Thank you.

1 CHAIRPERSON MULÉ: All right. Go ahead, Gerri.

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: Good
5 morning, Madam Chair and Committee members. Gerri Stryker
6 with the Enforcement Division, Permitting and Inspection
7 Branch.

8 The presentation on the proposed project will be
9 as follows. I will provide an introduction and overview
10 of the proposed project. Scott Walker will brief you on
11 research and development and demonstration regulations and
12 their status, as part of the project is subject to these
13 requirements. And then I will present staff findings and
14 recommendations. And once staff has completed their
15 report, the operator has a short presentation on the
16 facility and the proposed project.

17 The proposed revised full solid waste facility
18 permit includes a new research and development
19 demonstration permit, which is also known as RD&D, for a
20 bioreactor at the Chemical Waste Management, Incorporated,
21 Kettleman Hills Facility.

22 For your reference, I have on the screen
23 Attachment 4 that's from the agenda, which is a diagram of
24 the previous currently planned landfill projects at the
25 Kettleman Hills Facility site.

1 --o0o--

2 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: The
3 next slide is an aerial photo view of the 1,600-acre
4 Kettleman Hills Facility site.

5 As you can see, this facility is six miles from
6 Kettleman City. The Kettleman Hills Facility is a complex
7 site with multiple closed, active, and planned landfills
8 of various types.

9 --o0o--

10 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: The
11 next slide shows you the landfills within the 1,600-acre
12 site. Each landfill has operated or currently operates
13 under separate permits.

14 As you can see on the screen, the landfills have
15 been identified by their names and types of waste
16 received. The label Class I, II, or III designates the
17 design and construction of a particular landfill. The
18 classification of a landfill is done according to their
19 ability to contain certain types of waste and take into
20 consideration geology, hydrology, topography, climate, and
21 other factors related to the unit's ability to protect
22 water quality.

23 There are three basic waste categories:
24 Hazardous waste material, which can only go into a Class I
25 landfill; designated waste, which can only go in a Class

1 II landfill; and either hazardous waste that has been
2 granted a variance from hazardous waste management
3 requirements or is nonhazardous waste that for reasons
4 determined by the State Water Quality Control Plan needs a
5 higher level of containment than a landfill -- then a
6 Class III landfill would supply. The third is
7 nonhazardous waste which can go into Class II or Class III
8 landfill.

9 DEPUTY DIRECTOR LEVENSON: I see some questioning
10 looks.

11 COMMITTEE MEMBER WIGGINS: Where does the
12 hazardous waste go on this picture?

13 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: It
14 would go in all of the Class I landfills. So B-18 right
15 there is a Class I, but -- and a Class II.

16 COMMITTEE MEMBER WIGGINS: So it would be B-18?

17 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: Is the
18 hazardous waste landfill, yes, that is currently active.

19 COMMITTEE MEMBER PEACE: Can I ask a question?
20 On B-19, what's dark, is that where the three million
21 yards of hazardous waste is? Because didn't it say three
22 million cubic yards of hazardous waste is already in B-19?

23 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: I
24 think the operator would have to answer that question.

25 Landfill B-19 is the landfill covered by this

1 proposed permit revision and is classified as a Class II
2 and Class III landfill.

3 Other landfills within Kettleman Hills Facility
4 sites but not covered by this permit include Class I and
5 other Class II and Class III landfills, as you can see
6 from the photo. This proposed permit revision will allow
7 the operator to convert a portion of landfill B-19 to be
8 operated as a bioreactor unit.

9 --o0o--

10 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: As you
11 can see, it's the top portion that they are planning on
12 doing that with.

13 This permit would also increase the maximum
14 permitted tonnage per day of Class II designated waste,
15 which are contaminated soils; and Class III municipal
16 solid waste in the B-19 from 1,400 tons per day to 2,000
17 tons per day.

18 It would increase the hours of waste acceptance
19 at the B-19 to include Saturday from 8:00 a.m. to 6:00
20 p.m. Would reconfigure the footprint of the landfill B-19
21 from 40.4 acres to 29 acres while increasing the height
22 from 935 feet above mean sea level to 945 feet above mean
23 sea level.

24 It would revise the final cover system from a
25 composite barrier layer system to an evapotranspirative

1 cover system. It would revise the estimated closure date
2 to up to 2012, and it would change the facility name to
3 Chemical Waste Management, Incorporated, Kettleman Hills
4 Facility MSW Landfill B-19.

5 Since this is the first project to come to the
6 Board under the research development and demonstration
7 regulations, I would like Scott Walker to give a brief
8 update regarding the status of the research development
9 and demonstration regulations

10 CHAIRPERSON MULÉ: Gerri, we have question from
11 Board Member Wiggins.

12 COMMITTEE MEMBER WIGGINS: While we're looking at
13 the map, can we get the answer to Cheryl's question about
14 the hazardous waste on B-19?

15 CHAIRPERSON MULÉ: Why doesn't the operator come
16 forward? And please state your name for the record.

17 MR. HENRY: Good morning. My name is Bob Henry.
18 I'm the General Manager for the Chemical Waste Management
19 Kettleman Hills Facility. I've been at the facility
20 approximately 18 years.

21 The area in question, Board Member Peace, is the
22 black plastic that you see out there -- actually the
23 green, the border that you see, that represents the 40
24 acres that the landfill occupies. The original permit
25 included having solid waste over the entire 40 acres.

1 We're proposing to reduce that down to 29 acres. The 29
2 would follow the soil area within the 40 acres. So what
3 you're seeing in the black plastic, that is a protective
4 cover we put over the existing hazardous waste that's
5 underlying there. That is actually part of the three
6 million. When I do my presentation, I'll have a cross
7 section to show in detail the three million yards that are
8 in place.

9 COMMITTEE MEMBER PEACE: So the three million
10 cubic yards of hazardous waste will be below the
11 bioreactor?

12 MR. HENRY: It actually -- the bioreactor would
13 be in the top part of your screen. And then what's called
14 a control unit would be in the middle portion of the
15 screen overlying the hazardous waste.

16 COMMITTEE MEMBER PEACE: And the dark area where
17 we see the plastic, what's going to happen there?

18 MR. HENRY: Where you see black plastic right
19 now, with my presentation, it will show the black plastic
20 has been removed and we're putting down spec material to
21 go through the prescriptive closure cap for hazardous
22 waste landfills which would be a 40 mil HDPE of geotec
23 style and a minimum of 30 inches of vegetative soil. So
24 that area there will be closed with no municipal solid
25 waste overlaying it.

1 CHAIRPERSON MULÉ: Okay. Let's continue.

2 Good morning, Scott.

3 BRANCH MANAGER WALKER: Good morning. Scott
4 Walker, Permitting and Enforcement Division.

5 I've been asked to give you an update on the
6 research development and demonstration, RD&D, permits rule
7 and give you a brief synopsis.

8 U.S. EPA issued a rule in March of '04 to allow
9 what are called RD&D permits for municipal solid waste
10 landfills under Subtitle D. RD&D permits, the intent was
11 to provide site specific variances from certain Subtitle D
12 criteria to foster innovative municipal solid waste
13 landfill technology such as bioreactors, provided that
14 equivalent or better controls were established to protect
15 public health and safety and the environment.

16 Essentially there are three areas of variance.
17 The main one is the variance for prohibition on adding
18 liquids and liquid waste to a landfill unit from outside
19 the unit. That is basically what's required in order to
20 accelerate the decomposition for operational technology
21 such as bioreactor landfills.

22 In terms of the regulatory status, U.S. EPA
23 requires states to adopt regulations to establish this
24 flexibility, and they also require U.S. EPA approval to
25 update our Subtitle D program which is implemented by the

1 Board and the State Water Resources Control Board. The
2 Board adopted regulations in June of '05, and the State
3 Water Resources Control Board adopted an amended policy
4 9362 in July. And essentially these regulations and
5 policy were approved by the Office of Administrative Law,
6 and they became effective in October of 2005. And we
7 worked directly with EPA and drafting of this language
8 basically mirrors EPA's language pretty well exactly and
9 then adds some additional requirements on top of that.

10 So the regs are in place at the state level. And
11 so the next step is the application to U.S. EPA for
12 approval and essentially amendment of our Subtitle D
13 program. The amendment application was submitted in March
14 of '06, and then EPA determined in early June that the
15 application was complete. What we are waiting for now is
16 the first of two federal register notices signifying the
17 full final approval of U.S. EPA.

18 In accordance with the direction of U.S. EPA, the
19 proposed RD&D permit for the Kettleman Hills Landfill
20 includes a condition that the actual addition of liquids
21 whereby the variance is being requested will not occur
22 until such time that EPA has actually issued that final
23 approval of the updated program. And so that is
24 essentially in accordance with EPA's request and it is in
25 the permit conditions and appropriate based on review of

1 staff.

2 That would conclude my presentation on the status
3 of RD&D, and I'd be happy to answer any questions.

4 CHAIRPERSON MULÉ: Do we have any questions for
5 Scott on the RD&D?

6 COMMITTEE MEMBER PEACE: I guess my general
7 question is you said this is the first one. What is Yolo
8 County? What's the Yolo Landfill?

9 BRANCH MANAGER WALKER: Yolo County Landfill
10 operates a bioreactor landfill, but they went through a
11 different regulatory approval process. They use what's
12 called Project Excel, which granted the site-specific
13 waivers. That was a federal program that was allowed for.
14 It was the only mechanism at the time for them to allow
15 for such operation. And so it went through a separate
16 process. Project Excel is no longer available. The
17 program stopped. So new projects for bioreactor
18 landfills, the only mechanism is RD&D at this time.

19 CHAIRPERSON MULÉ: Okay. Our next speaker.
20 Gerri, back to you.

21 SOUTH CENTRAL SECTION SUPERVISOR STRYKER: Back
22 to me. Thank you, Scott.

23 The environmental impact report developed for
24 this project identified significant and unavoidable
25 environmental impacts, specifically for ambient levels of

1 the particulate matter material in the air of the facility
2 in Kings County. This county is a nonattainment area for
3 particulate material.

4 In 2005, the Kings County Planning Commission and
5 County Clerk found that despite the occurrence of this
6 significant unavoidable effect, the economic, social, and
7 other benefits the project will produce will render the
8 significant effect acceptable and therefore adopted a
9 Statement of Overriding Considerations, which is
10 Attachment 6 of your agenda item. I will not be going
11 into the reasons therein, but they are in the item itself
12 on page 12-8.

13 An AB 1497 hearing was conducted by the LEA on
14 May 10th. We have contacted all the organization
15 representatives that expressed an interest in the project
16 during the hearing informing them that the proposed permit
17 was to be heard by the Permitting and Enforcement
18 Committee. In response to that was the letter that you
19 received this morning from one of those that we contacted.
20 Representatives from the LEA and the operator are present
21 today and can answer any questions you may have about the
22 community outreach.

23 Staff finds that this proposed permit is
24 consistent with the RD&D regulations. Staff also finds
25 that the LEA has made all the necessary findings relevant

1 to the permit, and staff finds that the proposed permit is
2 consistent with all requirements. Therefore, the Board
3 staff recommends adoption of Option 1, adopt CEQA findings
4 and Statement of Overriding Considerations adopted by the
5 lead agency and concur with issuance of the proposed
6 permit as submitted by the LEA and adopt Resolution
7 2006-125.

8 This concludes staff's presentation. As
9 previously indicated, Bob Henry, Kettleman Hill's facility
10 director of operations, would like to make a brief
11 presentation. And the LEA of Kings County is also present
12 to answer any questions.

13 CHAIRPERSON MULÉ: Thank you, Gerri.

14 Good morning. Would you state your name again
15 for the record?

16 (Thereupon an overhead presentation was
17 presented as follows.)

18 MR. HENRY: Good morning. My name is Bob Henry.
19 I'm the Director of Operations for the Chemical Waste
20 Management Kettleman Hills Facility. While that's
21 loading, if I could answer a couple of questions.

22 Board Member Wiggins, the meetings we have held
23 in Kettleman. As far as the public scoping meetings, we
24 held public scoping meetings not only in Hanford,
25 California, the county seat, but we also held one in

1 Hanford in the day. And then that night we held one in
2 Kettleman City at the community center.

3 As far as announcements for that public scoping
4 meeting, I sent to box holders -- in the community of
5 Kettleman City, everyone is a box holder. Over 300 box
6 holders in the community. Everyone was sent an
7 announcement in both English and Spanish of that meeting.

8 After the public scoping meeting, the County
9 received comments. A draft SEIR was generated. The draft
10 SEIR summary was translated into Spanish and sent to all
11 the box holders. And also when the meeting on the draft
12 was held, that was also sent to all the box holders in
13 both English and in Spanish.

14 When the final actually came out, again another
15 notice about the meeting was sent out to all box holders.
16 And the final subsequent environmental impact report
17 hearing was held in Hanford, California. The LEA and in
18 conjunction with CIWMB held a meeting on May 10th
19 regarding this project. And that was noticed in English
20 and in Spanish. And at all these meetings I had a
21 translator available.

22 COMMITTEE MEMBER WIGGINS: So was it translated?

23 MR. HENRY: At the beginning of each meeting, a
24 translator was available if there was a need for it.
25 Subsequent meetings, what we were using was headsets for

1 translating services.

2 COMMITTEE MEMBER WIGGINS: Okay. Thank you.

3 MR. HENRY: Board Member Peace, as far as the
4 scorecard -- I'm sorry. Member Wiggins, on the TRI, toxic
5 release inventory, one thing needs to be noted is that the
6 toxic release inventory also includes landfills where you
7 may have a release to quote the ground or to the air -- in
8 our case, to the ground -- that consider a release to the
9 ground materials we place in our Class I double lined
10 secured landfill. So what they take as far as the toxic
11 release inventory, they take our hazardous waste
12 profiles -- this is how you profile your waste into our
13 facility. You will use a theoretical number of how much
14 contaminants it is in that load. You will multiply it by
15 the pounds and come up with a number of how much has been
16 released to the ground or actually placed in the landfill.
17 The number that is being quoted in the paper is somewhat
18 erroneous in that it's going into a Class I landfill, not
19 being released to the environment.

20 COMMITTEE MEMBER WIGGINS: Thank you.

21 MR. HENRY: If I could, this is an overview photo
22 of the facility.

23 --o0o--

24 MR. HENRY: Entrance to the facility on State
25 Route 41. Presentation for you folks today. Glad to be

1 here. Thank you.

2 --o0o--

3 MR. HENRY: Bioreactor project. What we're
4 looking to do is create an anaerobic bioreactor. There's
5 multiple types of bioreactors. There's aerobic,
6 anaerobic, facultative, what have you. We're looking to
7 do an anaerobic bioreactor, which is just the addition of
8 liquids.

9 Proposed project also includes for receipt of 800
10 tons a day of liquid and high moisture content waste to
11 actuate the bioreactor and provides for receipt of 800
12 tons of soil for daily cover. That could be your ADCs and
13 what have you.

14 Requested permit modifications: Increase the
15 daily tonnage limit to 2,000 tons per day. Presently
16 we're 1400 tons per day, and we bump that limit most days.
17 We're taking in solid waste from Kings County, Tulare
18 County, and Fresno Counties.

19 Provides for Saturday waste acceptance. What
20 we're trying to do here is with the trend. We're not open
21 for general public disposal. Most of our material comes
22 directly from material recovery facilities where it's
23 already been processed through pulling out the recyclables
24 through curbside or two dirty MRF processes from the
25 customers.

1 We need to be able to take waste on Saturday.

2 That would be from 8:00 a.m. to 6:00 p.m., which is our
3 normal Monday through Friday operating hours.

4 Reconfigures the landfill from 40 to 29. I'll go
5 over that in more detail. Steepens final grades of the
6 solid waste landfill from four to one, foot horizontal to
7 one foot vertical to an effective slope of three to one.
8 Effective slope with the benches means it's about
9 two-and-a-half to one horizontal to vertical slope on the
10 landfill. And revises the final cover from a composite
11 liner system to monolithic cover system basically from
12 geosynthetics over to a soil cap.

13 --oOo--

14 MR. HENRY: What is an anaerobic bioreactor?

15 This is the definition. A landfill is considered to be an
16 anaerobic bioreactor when the moisture content of the
17 waste is equal to or greater than 80 percent of the water
18 holding capacity of the waste. For most waste streams,
19 that means it needs to be about 40 to 45 percent total
20 moisture.

21 An anaerobic bioreactor uses a combination of
22 liquid waste, recirculated leachate to break down the
23 solid waste in an accelerated time fashion. What you're
24 trying to do is get the gas out of the landfill much
25 quicker. Then due to the air climate of the San Joaquin

1 Valley, we're going to need approximately 50 gallons of
2 liquid waste for every one yard of solid waste that's in
3 the landfill. That's quite a bit of water. And I'm going
4 to go into a little bit more detail.

5 We're asking in our permit that 800 tons a day of
6 liquid waste translates to about 170,000 gallons per day.
7 Now, it would take us approximately two years to hydrate
8 that landfill to that water holding capacity. Knowing
9 what the market is out there right now, it's probably
10 going to take us about four to five years to hydrate that
11 landfill, provided the project is approved.

12 --o0o--

13 MR. HENRY: Typical anaerobic bioreactor. What
14 you're looking at here is the blue would represent liquids
15 getting into the waste mass itself, and the yellow
16 representing the glass collection system.

17 --o0o--

18 MR. HENRY: Basically there's two types of
19 bioreactors you can construct. New construction where the
20 waste is not in place yet, or retrofit where the waste is
21 already in place. New construction, you can gain 30 to
22 50 percent more volume out of your landfill if you were to
23 do that. With the retrofit, you can get 15 to 30 percent
24 more volume into the landfill. What we're using for our
25 project is we're looking at and how we modeled it was a 20

1 percent increase in the volume of the landfill.

2 --o0o--

3 MR. HENRY: This is landfill unit B-19. It's a
4 40-acre unit. Forty acres around the parameter of it.
5 We're reducing the acreage from 40 acres down to 29 which
6 would be reflected by this area here. Two functions under
7 RD&D research development and demonstrations, if you have
8 a bioreactor, you have to have a control area to measure
9 it against. We're proposing the control area to be this
10 area here. The control area would have a gas collection
11 system along with the bioreactor. And then the bioreactor
12 would have the liquids addition.

13 COMMITTEE MEMBER PEACE: I assume you have a
14 whole set of protocols in place for the control.

15 MR. HENRY: Yes, ma'am. It's an appendix in the
16 JTD.

17 --o0o--

18 MR. HENRY: The landfill itself is approximately
19 7 million cubic yards for all the 40 acres. The existing
20 Class I is approximately 3 million yards represented by
21 the yellow. The control area, approximately one million.
22 And due to the fact the cross section where this was
23 taken, they're not to scale, this would be the bioreactor.
24 This particular cross section was a little
25 earlier. It shows horizontal piping for liquids

1 distribution in the bioreactor and then horizontal piping
2 as well for gas on both sides. That's not going to be how
3 it's actually going to be or is being proposed. We have
4 vertical wells for gas extraction in both the control and
5 bioreactor and then also vertical wells and infiltration
6 galleries, which I'll go over in a minute, for liquids
7 injection into the bioreactor.

8 BOARD MEMBER DANZINGER: Could you go back to
9 that slide?

10 MR. HENRY: Yes, sir.

11 BOARD MEMBER DANZINGER: So you do have Class I
12 waste, which will physically be located under a portion of
13 the control area and the bioreactor?

14 MR. HENRY: That is correct.

15 BOARD MEMBER DANZINGER: So I mean, do you do
16 anything special on top of that that preserves the
17 integrity of, you know --

18 MR. HENRY: Commingling of the waste.

19 BOARD MEMBER DANZINGER: Yeah. Whatever. I
20 mean, just again, I didn't know that they were going to be
21 layered.

22 MR. HENRY: The landfill system itself --

23 --o0o--

24 MR. HENRY: -- on the right side, you can see the
25 separation detail that we have between the solid waste and

1 the hazardous waste. Hazardous waste depicted by the
2 yellow. Then a cover soil. We have a layer of HDPE, a
3 layer of geotech style, and then operations layer before
4 you get up to the solid waste.

5 --o0o--

6 MR. HENRY: So you're closing -- we've closed
7 this portion of the hazardous waste landfill, all this up
8 to this point right here, with that separation detail
9 separates the liquid and then the gas.

10 BOARD MEMBER DANZINGER: Is that in essence like
11 a Sub D final cover or a version of it?

12 MR. HENRY: It's a Sub C final cover.

13 BOARD MEMBER DANZINGER: It's a Sub C final
14 cover.

15 MR. HENRY: Correct.

16 BOARD MEMBER DANZINGER: And just thinking about
17 the different types of things that a closed landfill might
18 be used for that has a final cover on it and something
19 else is done on top, whether a golf course or whatever the
20 heck it might be, this is going to be a cell that has a
21 final cover on it, and it's going to have a bioreactor on
22 top of it?

23 MR. HENRY: It will have -- the control portion
24 of the bioreactor and a very small portion would have the
25 bioreactor on top of it.

1 BOARD MEMBER DANZINGER: Right. So do Sub C
2 final cover requirements contemplate that type of activity
3 over its final cover?

4 MR. HENRY: In addition to permits from CIWMB,
5 the Water Board, we're also working with DTSC. This
6 project is in -- there was hazardous waste in the area
7 that would be -- that we're proposing for the bioreactor.
8 There was a waste mass slippage back in 1998 -- I'm
9 sorry -- March of '88 where we had to relocate the
10 hazardous waste out of 1-A where the bioreactor is into
11 phases two and three.

12 With that, this entire unit is under delay of
13 closure under the Department of Toxic Substances Control.
14 We've modified our closure plan for the hazardous waste to
15 denote there is a bioreactor proposed on top of it. We
16 have gone through permitting with DTSC and received a
17 temporary authorization from DTSC to change the slopes on
18 the bioreactor from the four to one to the effective three
19 to one. But we still have to go through what's called a
20 Part B permit public hearing permit modification.

21 BOARD MEMBER DANZINGER: Okay.

22 MR. HENRY: So they have -- DTSC has done an
23 extensive evaluation on the stacking with having a
24 bioreactor on top of the landfill. We've done the work
25 and submitted, and they have approved it.

1 BOARD MEMBER DANZINGER: Have we looked at that?
2 Have we seen that? I know it's not our area. But I mean,
3 is that the type of thing we look at on the periphery as
4 part of what gives us a comfort level?

5 DEPUTY DIRECTOR LEVENSON: I'll ask Scott to
6 answer that. We have looked at that, but Scott can
7 provide some more details.

8 BRANCH MANAGER WALKER: Scott Walker, Permitting
9 and Enforcement Division.

10 The primary jurisdiction over the requirements
11 for the design and construction with DTSC and the Water
12 Board, we have been involved with them and we do look at
13 that, and with respect to our requirements. And this
14 site, we've worked quite closely with both the Regional
15 Water Board and DTSC as they have developed this project
16 to make sure it's consistent with all our requirements.

17 BOARD MEMBER DANZINGER: Okay. Thanks, Scott.

18 --o0o--

19 MR. HENRY: Liner details, on the far right is
20 the separation. What I wanted to point out on the floor,
21 this particular unit has a double liner system. Primarily
22 leachate collection and recovery system and then also a
23 secondary leachate collection and recovery system.
24 Because we redid it from a hazardous waste, it also had a
25 tertiary liner system.

1 So as far as environmental protection, you'd have
2 the primary liner system with the leachate, secondary
3 liner as well. On the side slopes, you have a single 80
4 mil liner and three-and-a-half feet of compact clay with
5 one times ten to the minus seven permeability.

6 --o0o--

7 MR. HENRY: This is an actual photo of landfill
8 unit B-19. This is the north end or what we're proposing
9 for the bioreactor. It actually is an 18-acre bioreactor
10 shelf, total bioreactor with control would be 29. The
11 bioreactor portion would be 18 acres.

12 --o0o--

13 MR. HENRY: This would be -- this is the south
14 end of the unit. It's a little large. Kind of hard to
15 get it all in one photo. The control area would be here.
16 Th black plastic you see has been removed in this area.
17 We have spec material that's going down, and then you have
18 textile over it. And you have a buttress berm that's
19 going to be coming up on the side of this as well for a
20 stability buttress for static and dynamic stability.

21 --o0o--

22 MR. HENRY: The volumes: Approximately one
23 million for the control; three million for the bioreactor.
24 Total volume is about four million cubic yards for solid
25 waste.

1 --o0o--

2 MR. HENRY: Capacity without liquids addition is
3 about 2.5 million tons. With addition, it would be almost
4 three million. We would gain about 377,000 tons of
5 capacity for this particular unit. You would be
6 preserving having to go in and develop new landfills by
7 that much tonnage. That represents with today's volumes
8 into the Kettleman Hills Facility from Kings County,
9 Fresno County, Tulare County about 14 1/2 months worth of
10 capacity.

11 --o0o--

12 MR. HENRY: How are you going to get the liquids
13 into the waste mass? Direct application to the working
14 face, surface infiltration, horizontal pipes, vertical
15 wells. And then as far as getting the gas out of it,
16 you'd have vertical wells and enclosed flare system.

17 --o0o--

18 MR. HENRY: What I want to do is infiltration --

19 COMMITTEE MEMBER PEACE: The additional gas
20 you're going to be collecting off this would be flared?

21 MR. HENRY: Correct.

22 COMMITTEE MEMBER PEACE: You're not going to try
23 to collect it and do anything with it?

24 MR. HENRY: I wanted to. It's a very small unit.
25 You're going to be covering a lot of gas over a short

1 period of time. The economics are not there because it's
2 a very short duration where you're going to make that
3 landfill inert.

4 This photo is depicting some infiltration
5 galleries. The actual site is at our Louisville, Kentucky
6 site where we actually operate. As Waste Management, we
7 have about ten bioreactors nationwide in various stages.
8 This actual bioreactor has been in operation close to ten
9 years. This is something that's been demonstrated across
10 the U.S. that works very well.

11 These infiltration galleries that you see, what
12 they will do is take the interim cover off the solid
13 waste, put some perforated pipes in. There will be some
14 tire trips. What you're trying to do is have a larger
15 surface area to infiltrate liquids into the waste mass.
16 What you're trying to do is get to that water holding
17 capacity of that 40, 45 percent total moisture to get the
18 consolidation of the waste to biologically stabilize that
19 waste mass.

20 --o0o--

21 COMMITTEE MEMBER PEACE: Your other bioreactors,
22 there's ten of them you have?

23 MR. HENRY: Across the nation, yes.

24 COMMITTEE MEMBER PEACE: So the other ten also
25 take Class II waste?

1 MR. HENRY: They're Subtitle Ds. Now Class I
2 would be California Class II, California III, Subtitle C,
3 Subtitle D, and the rest of the nation.

4 COMMITTEE MEMBER PEACE: But our Class II waste
5 is hazardous waste. Do you have anything -- do your other
6 landfills take anything like that or are they all just
7 strictly --

8 MR. HENRY: Most of that material would fall
9 under your Subtitle D materials outside of the state.

10 COMMITTEE MEMBER PEACE: So your other ones
11 really just take MSW and doesn't take anything that we
12 consider designated waste?

13 MR. HENRY: No, ma'am. They would take the
14 designated waste. California is more restrictive, such as
15 with on the federal level you have RCRA hazardous waste.
16 And then you have non-RCRA hazardous waste designated by
17 the state of California, California being more
18 environmentally conscious and pulling more of that out of
19 the waste stream.

20 Same thing with your designated waste and your
21 MSW going into a Class III landfill here in the state or
22 could be a Subtitle D Class II/III landfill where you take
23 the designated waste into the Subtitle D landfill. If you
24 go out of the state of California, there is no non-RCRA
25 hazardous waste that would go into a municipal solid waste

1 landfill. There is no designated waste. That would go
2 into a solid waste landfill.

3 There is some states that do have additional
4 regulations similar to California, but we're very proud of
5 our environment, and we're trying to take care of it. And
6 we're pushing more into the more secure landfills.

7 --o0o--

8 MR. HENRY: This photo depicts horizontal piping
9 that we have at the, again, outer Louisville, Kentucky
10 landfill where you would dig trenches into the solid
11 waste, put perforated pipes in, tire shreds. And what they
12 would do is inject that. What you have is an influence of
13 about 50 square feet. So you would want to put these on
14 50 feet centers to be able to hydrate the solid waste
15 mass.

16 --o0o--

17 MR. HENRY: Just for reference, a typical gas
18 well coming out that would be connected to a header pipe
19 around the perimeter of the landfill to extract that gas
20 out -- the landfill gas out.

21 --o0o--

22 MR. HENRY: This is an important slide. If you
23 look at the -- this depicts a 1,000 ton per day landfill
24 that has a 20-year life. If you look at the area
25 underneath the blue curve would be the bioreactor. The

1 traditional landfill, solid waste landfill, would be the
2 red. The areas under the curves are basically the same.
3 You have so much waste inside the landfill. You
4 had so much potential for generating methane gas or
5 landfill gas. With that, it's basically an equal
6 calculation. But if you look at it at 20 years, you can
7 see where the gas generation starts dying off. That's
8 when you discontinue adding any solid waste to the
9 landfill. But by adding the liquids while you're placing
10 the waste, you can see where you have a much higher volume
11 of gas you recover from landfill. You stop taking waste
12 at 20 years. You can see by the time you hit ten years
13 later with the bioreactor, you're down under the 300 cubic
14 foot per minute gas production. When you go to the
15 30-year closer period, which would be at year 50, you
16 basically have no more gas in your landfill.
17 Now, you correlate that to a traditional
18 landfill, which is the red diagram, you can see after
19 20 years you stop taking waste, but continue to generate
20 gas. You can see it doesn't get down to the magic 30
21 until year 60 and closer to 100 years before you get all
22 the gas out of the landfill. So bioreactors, by getting
23 that gas out of the landfill much quicker, makes that
24 landfill inert, makes it less of an environmental risk to
25 the state.

1 COMMITTEE MEMBER PEACE: You're saying all the
2 gas doesn't come out of the landfill until like 100 years
3 after it closes?

4 MR. HENRY: If it was in dry landfills, it's
5 going to take a lot longer. And we're in a very arid
6 climate. The more moisture you get in that landfill, the
7 quicker the gas comes out.

8 COMMITTEE MEMBER PEACE: Let's remember that for
9 the next item.

10 MR. HENRY: That's why I wanted to point out the
11 300. You're looking at closing the landfill at 20 years
12 and not hitting the magic number until year 60, which
13 could be at 40 years. The bioreactor helps get that gas
14 out quicker which reduces the environmental risk much
15 quicker.

16 --o0o--

17 MR. HENRY: Project benefits, increases the
18 amount of waste settling, yielding increased landfill
19 capacity. That's where we said we're going to gain 20
20 percent volume, 377,000 more tons we will not have to
21 develop landfills for. Reduces long-term liability of a
22 landfill due to reduced time frame for waste degradation
23 and landfill gas generation. You're degrading the waste
24 quicker. You're getting the gas out quicker. You're
25 biologically stabilizing that waste mass.

1 Alternative disposal method for liquid waste.
2 This is something that is pressuring our cities where when
3 you have high solid content waste streams that are going
4 into the public treatment works, there happen to be the
5 customers are being surcharged. This will be a very good
6 outlet for those hard to handle solid content waste
7 streams that are taxing the POTWs.

8 --o0o--

9 MR. HENRY: Associated activities of the
10 Kettleman Mills Facility. One of the things is as B-19,
11 the proposed bioreactor project, reaches capacity, that
12 landfill, we need to have a little bit more working area
13 on top of to have these infiltration galleries on the top.
14 What we're going to be doing is we're going to stop before
15 it reaches final capacity, move over to another landfill.
16 And then once we've achieved some of this consolidation of
17 the waste mass, move back into B-19 to capture that
18 377,000 tons. So what will be in front of this Board
19 later this year, actually the JTD that will be submitted
20 on Monday, we've already gone through CEQA and have an
21 approved CEQA document. On May 30th, we received CEQA
22 approval for landfill B-17 which would be a solid waste
23 landfill only, not proposed as a bioreactor.

24 Also ongoing at the site we have two other
25 projects that are put together under CEQA, and that would

1 be landfill unit B-18 and landfill unit B-20. Those are
2 existing hazardous waste landfills. B-18 is existing.
3 We're looking to expand that one by 11 acres, and B-20
4 would be a new landfill unit under CEQA. And in essence,
5 not to avoid piecemealing those two together.

6 --o0o--

7 MR. HENRY: Locations of those projects. B-17
8 would be located here. B-18 is existing hazardous waste
9 unit, expanding it by 11 acres. B-20 would be the new
10 hazardous waste. Haz waste, haz waste expansion, solid
11 waste.

12 --o0o--

13 MR. HENRY: Other things we do at the facility,
14 we have 24 hours a day, seven days a week manned security
15 office for everyone entering the facility.

16 --o0o--

17 MR. HENRY: Administration building, all the
18 environmental records are kept there for the hazardous and
19 solid waste activities.

20 --o0o--

21 MR. HENRY: This is our receiving laboratory
22 area. As the haz waste trucks or solid waste trucks come
23 in, if they need to, they will untarp here at the sampling
24 platforms. We have a dedicated scale for solid waste and
25 we have another set of scales for the hazardous waste.

1 This building here is our DHS certified laboratory for the
2 EPA methods. We're permitted to perform TCLPs, STLCs,
3 sulfide, things like that that we need on a hazardous
4 waste site.

5 CHAIRPERSON MULÉ: Bob, I just have a quick
6 question. You said sampling the sampling sites. So how
7 many loads -- are all the loads sampled?

8 MR. HENRY: On the hazardous waste side?

9 CHAIRPERSON MULÉ: Yes.

10 MR. HENRY: We receive all of our bulk material
11 that would be end-dumps, roll-off tankers in this
12 location. Containers go to our drum storage location.
13 The ones that require sampling would be all your RCRA
14 materials, all your tanker materials, certain California
15 hazard -- non-RCRA California hazardous waste. There's
16 like four waste streams that would require. But all waste
17 streams we have to do 100 percent visual inspection of all
18 loads coming in.

19 CHAIRPERSON MULÉ: And you do have this on-site
20 lab that is approved by DHS; correct?

21 MR. HENRY: Correct. For the EPA methods that we
22 performed.

23 CHAIRPERSON MULÉ: Thank you.

24 COMMITTEE MEMBER PEACE: Didn't I read somewhere
25 in here you sample one percent?

1 MR. HENRY: That would be on the solid waste
2 side. That's the minimum requirement.

3 COMMITTEE MEMBER PEACE: So you're doing the
4 minimum requirements?

5 MR. HENRY: But you have to remember most of our
6 materials are coming from material recovery facilities
7 where they've pulled out the recyclables already, and
8 those have gone through screening processes at those
9 locations.

10 One of the things we do above and beyond as well
11 at this facility is we screen for radioactives at our
12 inbound scales. So we're screening at both the MSW scale
13 and at the hazardous waste scale.

14 CHAIRPERSON MULÉ: So most of your MSW is
15 post-residual -- post-MRF residual?

16 MR. HENRY: Most of it is residual solid waste
17 coming out of material recovery facilities.

18 --o0o--

19 MR. HENRY: We also do stabilization at the
20 facility. That's where you stabilize your RCRA hazardous
21 waste. That might be lead impacted soil, something like
22 that. High profile jobs would be Golden Gate Bridge Marin
23 side where the lead impacted paint they used, that came to
24 our facility and we'll stabilize it. As far as the
25 Kettleman Hills Facility, we are the highest volume

1 disposal facility in the nation for hazardous.

2 --o0o--

3

4 COMMITTEE MEMBER PEACE: So when the community
5 says they're the dumping ground, they're right?

6 MR. HENRY: I don't know that I would -- the
7 community is located -- the closest neighbor we have is
8 three-and-a-half miles away.

9 We have a very in-depth community outreach
10 program actually with our B-19 conversion. We set up a
11 nonprofit 501(c)(3) in Kettleman City where we developed
12 the Kettleman City Foundation where I serve as one of the
13 Board of Directors. The Kettleman Hills Facility
14 contributes 25 cents a ton for every ton of MSW that's
15 disposed of at the facility in landfill unit B-19.

16 We've been able to take those moneys -- plus I
17 was able to work with the County Board of Supervisors who
18 I'm in front of every month to achieve a Community
19 Development Block Grant and then also a First Five Grant.
20 We were able to build a community center, a family
21 resource center, and a Head Start building, two
22 5,000-square-foot buildings for Kettleman City and help
23 with services at that location.

24 So a dumping ground, we are the most highly
25 regulated facility in the state, if not the nation. What

1 we do I believe is environmentally sound and correct. And
2 we have a huge outreach program for the community.

3 This particular building is our drum storage
4 unit. As I mentioned, bulk would be down at our receiving
5 area. All our containerized waste would come up here.
6 What we will do at that location then is open every
7 container. Most of the containers are destined for our
8 Class I landfill. They may be destined for stabilization
9 or off site for incineration where we're transloading
10 materials out to other locations.

11 --o0o--

12 MR. HENRY: This is our landfill unit B-18. It's
13 the hazardous waste landfill. And this is just a quick
14 photo depicting waste coming across the landfill.

15 --o0o--

16 MR. HENRY: Questions for me?

17 CHAIRPERSON MULÉ: Board Member Wiggins.

18 Thank you, Bob.

19 COMMITTEE MEMBER WIGGINS: I just have a couple
20 of questions. What I read said that the generator will
21 somehow produce pollution. Can you explain what the
22 source of pollution would be? Because I thought it was
23 from trucks.

24 MR. HENRY: Oh, from the toxic release inventory?

25 COMMITTEE MEMBER WIGGINS: Yeah.

1 MR. HENRY: That was in the letter, quoted in the
2 letter. Toxic release inventory is U.S. EPA will go out
3 and take all the businesses, okay. Businesses could be
4 from refineries, could be chemical plants, a host of
5 plants. What they use to develop the toxic release
6 inventory for our site is the volume that's going into the
7 landfill itself.

8 COMMITTEE MEMBER WIGGINS: So --

9 MR. HENRY: It's not a real good representation
10 of pollution.

11 CHAIRPERSON MULÉ: Bob, is it actual releases or
12 is it a theoretical release?

13 MR. HENRY: It's a theoretical release based on
14 when we do a hazardous waste profile when you ship into
15 our site, you'll have a chemical composition that will say
16 you have 2 to 5 percent lead. Okay. So we will take the
17 average of that, multiplied by the number of pounds you
18 are submitting, and that will be the release to the
19 landfill, but they're looking at that as a release to the
20 ground. It's not a real accurate measurement of what
21 we're doing. And it's because it's going into a landfill,
22 not a release to a river, to the air, to the ground
23 outside of a landfill.

24 COMMITTEE MEMBER WIGGINS: So you're talking
25 about air emissions strictly. Can you talk about the air

1 emissions?

2 MR. HENRY: Air emissions, we calculated air
3 emissions from -- are we going PM10, PM 2.5, or truck
4 emissions? Those are all -- what we'll do is with the San
5 Joaquin Valley Air Pollution Control District, we have to
6 submit for a permit for that. Right now, what we're doing
7 is a gas collection and control system which would be --
8 regardless of the bioreactor, we have to have a gas
9 collection control system for that landfill mass on B-19.
10 When you look at --

11 COMMITTEE MEMBER WIGGINS: So my question is does
12 the bioreactor have any air emissions related to it other
13 than the flaring the gas?

14 MR. HENRY: You have the gas it's emitting from
15 the landfill itself, gas that's being collected from the
16 gas collection system because you can't collect
17 100 percent. You're getting most of it through your gas
18 collection system, but you still have a little bit that
19 comes off the landfill. You would have emissions from the
20 combustion of the landfill gas. And then we also have to
21 take a look at trucks -- site wise, you have to look at
22 the number of vehicles coming into the site. You have to
23 look at the vehicles, the construction equipment that
24 builds the landfill. You also have to look at the daily
25 covering of landfill with the heavy equipment. So yes,

1 you're looking at delivery trucks. Yes, you're looking at
2 the construction equipment, the Caterpillar equipment.
3 You're looking at the Caterpillar equipment that compacts
4 the trash and covers it on a daily basis. Also my
5 employees that -- our cars that come to work.

6 COMMITTEE MEMBER WIGGINS: My next question has
7 to do with one of the slides. It says that revises the
8 final cover system from a composite liner system to a
9 monolithic cover system. What is monolithic?

10 MR. HENRY: Monolithic just being a single
11 source.

12 COMMITTEE MEMBER WIGGINS: What?

13 MR. HENRY: A single item, one item. Where the
14 prior configuration was a 40 mil layer of HDPE plastic
15 geotech style which is like a filter fabric or cloth and
16 30 inches of soil. What we're proposing is four feet of
17 soil of a certain classification where what it will do is
18 you put the soil over the top of the landfill. We're very
19 aired. We have about six inches of rainfall, 104 inches
20 of evaporation.

21 What you want to do is design it so the rain
22 water that does percolate into the waste will not
23 percolate into the cover cap, that four feet, does not
24 have an opportunity to go through. It will evaporate and
25 go back. It will be moisture for the root stock for the

1 glass that will be planted. But any of it that's in
2 excess would evaporate back at the top, not go down into
3 the waste mass.

4 COMMITTEE MEMBER WIGGINS: So lastly, you say
5 there's 13 other bioreactors in other states.

6 MR. HENRY: Approximately ten.

7 COMMITTEE MEMBER WIGGINS: Ten. Okay. So this
8 is the first to come before this Board. Well, we need to
9 support new technology. Thank you.

10 CHAIRPERSON MULÉ: Pat, actually there's more
11 than ten bioreactor projects across the United States.
12 It's just that Waste Management is currently operating
13 ten. But there are bioreactor projects all over the
14 country. I know there's a few in Florida that I'm
15 familiar with. There's Illinois, Kentucky. They're all
16 over the place. But this is a new emerging technology,
17 and it has a lot of opportunity to, you know, accelerate
18 decomposition and reduce greenhouse gasses and actually
19 increase our landfill space and utilize it better.

20 MR. HENRY: I really believe this is going to
21 go -- it's already in a slow state going across the entire
22 United States. I think as with the double liner system we
23 have at Kettleman with the technical staff we have at the
24 Kettleman Hills Facility, I think we're a very good
25 candidate for the Board to allow us to do it. And what

1 you're going to see I believe is in the near future as
2 landfills are developed, other folks are going to be
3 coming to you saying we want to put double liner systems
4 in. We want to be a candidate for this, because of the
5 benefits of getting more capacity in your landfill. I
6 won't stand up here -- I'm going to get paid for the
7 liquids going into the landfill. But you're going to make
8 that landfill inert much quicker. And everybody likes
9 that idea.

10 COMMITTEE MEMBER PEACE: When you talk about the
11 liquids, what liquids?

12 MR. HENRY: The liquids that would need to go
13 into the landfill to get to that 40 to 45 percent moisture
14 capacity. Right now we've analyzed the solid waste. It's
15 8 to 20 percent. We need to get it up to 40 to 45 to get
16 it to that water holding -- it's 80 percent of the water
17 holding capacity, which means about 40 to 45 percent total
18 moisture. What we're going to have to do is bring liquids
19 in to hydrate that waste mass. That's why in the proposal
20 we're talking about 800 tons a day of liquids coming into
21 the site.

22 COMMITTEE MEMBER PEACE: What kind of liquids are
23 they, where are they coming from?

24 MR. HENRY: Most of it, I have three solar
25 evaporation ponds on site. The total capacity of those

1 Class I hazardous waste disposal ponds is about ten
2 million gallons. I do have some non-haz liquids coming
3 into the site. It could be truck wash liquids. It could
4 be from the food processing industry. It could be grinds
5 from food processing. It could be from oil exploration.
6 There's a host of things that could come in.

7 What I'm truly looking for is from the beverage
8 industries, the liquid waters that are hard to treat from
9 the POTWs. The sodas, the wines, the things like that, as
10 long as the sugar content doesn't get too high. But the
11 beverage industry will be one of the major sources.
12 Things you don't want are going to be the surfactant or
13 your soaps and things like that, because that will
14 actually kill the microbial process that's going on in the
15 landfill. So you want those type of liquids that will
16 help the organisms grow and keep them alive.

17 COMMITTEE MEMBER PEACE: So you're taking liquids
18 that nobody else wants.

19 MR. HENRY: That's the nitch is the POTWs aren't
20 going to want them because it's hard for them to treat it
21 and release. And this would give them -- the industries a
22 good outlet, a low cost outlet, to get rid of that type of
23 material. And it benefits all of us in getting that
24 landfill gas out of that landfill quicker.

25 COMMITTEE MEMBER PEACE: I guess another question

1 I have is why you want to change the name.

2 MR. HENRY: Actually, the Chemical Waste
3 Management, Incorporated, Kettleman Hills Facility, that
4 is what our haz permits are under. I believe it used to
5 be under Waste Management. And we are a wholly-owned
6 subsidiary of Waste Management. We need to keep it under
7 the wholly owned subsidiary.

8 COMMITTEE MEMBER PEACE: I guess I have a problem
9 when you want to change the name to MSW Landfill B-19 when
10 there's hazardous waste in there also.

11 MR. HENRY: A portion of that particular landfill
12 unit, yes. But they are separated by that separation
13 liner.

14 COMMITTEE MEMBER PEACE: But it's still B-19.

15 MR. HENRY: It's still landfill unit B-19, a
16 portion for solid waste, a portion for hazardous waste.

17 COMMITTEE MEMBER PEACE: Does anybody see a
18 problem with that, Howard, if they're going to call that
19 B-19 municipal solid waste when part of it is hazardous
20 waste?

21 DEPUTY DIRECTOR LEVENSON: No, ma'am. As Scott
22 indicated, we've undertaken reviews along with the
23 Regional Board and Toxics and are satisfied the DTLs in
24 the JTD and the other documents would provide that
25 protection. So we're concerned with the details of the

1 operation and don't see that the name effects that.

2 COMMITTEE MEMBER PEACE: And then the 2,000 tons
3 per day, is that then in addition to the 800 tons per day
4 of liquids and another 80 tons per day of Class II soils
5 and ADC?

6 MR. HENRY: Yes. You could be able to take in
7 2,000 -- we're proposing 2,000 tons per day of MSW, 800
8 tons a day of liquids, and up to 800 tons a day of soil as
9 daily cover. Typical landfills don't have a requirement
10 on how much of that they can take in. But under your CEQA
11 document, you have to identify a traffic section which
12 would -- based on the traffic, that would revert back to
13 how many tons we can take in.

14 COMMITTEE MEMBER PEACE: All these 3600 tons are
15 still going to be in 168 vehicles?

16 MR. HENRY: Correct, with only 86 allowed to go
17 through Kettleman City. The others would be coming up or
18 down Interstate 5 or from the coast, northbound 41.

19 COMMITTEE MEMBER PEACE: I read in the write-up
20 that there was no limit on ADC. But then in the permit,
21 it actually says 800. So there is a limit on --

22 MR. HENRY: Right. And that goes back to your
23 CEQA document from the amount of truck trips you analyzed.

24 COMMITTEE MEMBER PEACE: Now 800, isn't that
25 quite a bit of ADC?

1 MR. HENRY: Typically, on the Class I site, we do
2 quite a few cleanup jobs throughout the state. And
3 typically when a construction company will go onto a job
4 site, the stockpiled material will be thousands of tons
5 easily in a stockpile. What they want to do is move that
6 as quickly as possible to reduce their operating costs
7 while on site and reduce the overall job costs. So you'll
8 end up having, you know, 20, 40 trucks per job wanting to
9 run off that site to reduce the construction costs.

10 So 800 is -- I was hoping I could satisfy most
11 non-haz ADC qualified jobs. We have a number of jobs that
12 we've done for CIWMB or DTSC that we'll run over 100
13 trucks on a particular job, which would be 2,000 tons just
14 of waste.

15 COMMITTEE MEMBER PEACE: That sounds to me like
16 it's all being used as ADC then. It sounds like an awful
17 lot of -- 800 tons is an awful lot --

18 MR. HENRY: You want to keep it at 20 percent
19 cover ratio, plus we use tarps on a daily basis. Part of
20 that 800 tons, if we were fortunate enough to get that
21 job, we would put it in a stockpile. We would use as we
22 need it, but we would stockpile it because a job would
23 stop. Let's say there was 20,000 tons in the stockpile we
24 moved in. We moved it in at 800 tons a day at our permit
25 limit. Maybe we only needed to use 400 tons a day or

1 something like that. And then so we would have a reserve
2 stockpile to use after that job had stopped until the next
3 one started to replenish the stockpile in lieu of digging
4 clean soil out of the ground to use for cover.

5 COMMITTEE MEMBER PEACE: That percentage, I mean,
6 is that a normal percentage for a landfill to use? Is it
7 almost like 40 percent ADC a day coming in? Even though
8 you don't expect that much every day to be coming in.

9 DEPUTY DIRECTOR LEVENSON: Mr. Henry can
10 certainly speak to the details. But if they're in the 15
11 percent, 20 percent range, that's probably -- it has to
12 meet the technical requirements of our regulations
13 concerning thickness and application. So that's something
14 we expect the LEA to be looking at.

15 COMMITTEE MEMBER PEACE: So they could take in 40
16 percent ADC a day. They couldn't use that much.

17 DEPUTY DIRECTOR LEVENSON: As he indicated, they
18 couldn't be using that much on any particular day.

19 BRANCH MANAGER WALKER: Scott Walker, Permitting
20 and Enforcement Division.

21 Another thing to consider with respect to their
22 ADC use is they use a lot of low level contaminated soils.
23 And this stuff is a lot heavier than green waste. Green
24 waste is lighter. So they're going to be taking a higher
25 percentage as far as weight, because that contaminated

1 soil used as alternative daily cover is much heavier,
2 denser.

3 COMMITTEE MEMBER PEACE: It sounds like we're not
4 concerned with water going through the contaminated soil
5 in the bioreactor.

6 MR. HENRY: It would be Class II materials or
7 Class III materials.

8 CHAIRPERSON MULÉ: Okay. Board Chair Brown.

9 BOARD MEMBER BROWN: I have a quick question,
10 Bob. I was intrigued by your comment on B-19 you're going
11 to be flaring off the methane, that the cost is not there.
12 And then after that, you made a specific point to say that
13 B-17 would not be run as a bioreactor.

14 Could you just explain a little bit about why and
15 if you were to move to that if the economics would be
16 there, because we've seen that capturing the methane and
17 generating it does produce electricity. So I think part
18 of the bioreactor that appeals most to me is the
19 alternative energy that's produced from the bioreactor.
20 And it doesn't seem like you guys are taking advantage of
21 that.

22 MR. HENRY: With B-19, if you look at the curves,
23 it's a lot of gas. We're designing the flare for about 25
24 CFM, but it's going to be over a very short period of time
25 because we don't get to use the whole seven million,

1 because of the hazard. We're down to a three million yard
2 landfill. Looking at the regs most I think we're just
3 barely over the requirement to actually even have to put a
4 flare into the particular unit.

5 But I really sincerely wanted to either run
6 engines or run microturbans. And I pushed really hard,
7 but the finances just wasn't there. The benefit wasn't
8 there. The reason we're not going -- permitting B-17 as a
9 bioreactor is we hoped to be in front of you years before
10 when B-19 was just reaching capacity and we'd have some
11 history.

12 Under RD&D, you get a three-year permit and you
13 can have it renewed for three years for three consecutive
14 or twelve total years that you can actually reapply for a
15 bioreactor permit under RD&D. If it works out well with
16 B-19, which I'm hoping it will, I'm thinking it's going to
17 take probably two years at 170,000 gallons a day to get it
18 hydrated. I think it's going to take us four to five
19 years to get it hydrated where we're getting good gas
20 flow. So we'll go through the first three-year period and
21 not have a lot of story to tell you. The second
22 three-year period I hope I have a real good story to tell
23 you. And at that time it may be I come in and go to the
24 County and say I need to do a supplemental environmental
25 impact report to permit B-17 as a bioreactor.

1 In our JTD, I'm spending the money and proposing
2 to put a double liner in B-17 for environmental
3 protection. Because if I don't do that now, I won't be in
4 front of you in several years asking for a bioreactor
5 without a double liner system. I'm not --

6 BOARD MEMBER BROWN: You're not ruling it out
7 yet. You're preparing for the possibility in the future.

8 MR. HENRY: For B-17. And when I'm looking at
9 it, I'm going to be looking for turbans. But it has to
10 pencil.

11 BOARD MEMBER BROWN: Thanks.

12 CHAIRPERSON MULÉ: Thank you.

13 Do we have any other questions or comments?

14 COMMITTEE MEMBER PEACE: The only comment I have
15 is when I look through the Statement of Overriding
16 Considerations, it says you're going to create jobs. How
17 many more jobs are created in terms of it being a
18 bioreactor if it wasn't a bioreactor?

19 MR. HENRY: With the tonnage increase in the
20 bioreactor, I'm looking for five additional people: Two
21 additional operators, two additional folks for litter
22 control, and one to run the gas system and then actually
23 monitor to liquids going into the landfill unit. So five
24 additional.

25 COMMITTEE MEMBER PEACE: So when I look at all

1 these overriding considerations, it sounds to me like all
2 of these are basically just benefits to the chemical waste
3 management. They're not really benefits to the community.
4 So I was happy to hear that you do have a fund where --
5 because to me, when we're talking about environmental
6 justice if we're really serious about it, that would be
7 the least that you can do is to have a fund so these
8 people can have some parks. You can make some parks,
9 community soccer fields or something in the community.

10 MR. HENRY: I would --

11 COMMITTEE MEMBER PEACE: Some benefit.

12 MR. HENRY: I would invite all of you out to our
13 facility. I've actually built a baseball stadium,
14 softball field. We've redone the soccer fields for the
15 grade school. I actually helped with one of our
16 legislators in getting 16 acres donated to the school to
17 develop that. Part of the property that the community
18 center is located on was donated by Chevron to the school
19 district and subsequently donated to the County and back
20 to the Kettleman City Foundation.

21 We recently did a cleanup on the entire west side
22 of the community. Pulled over 100 tons of debris out of
23 the ravines and locations around the parameter of
24 Kettleman City. Over 13 tons of green waste was recycled.
25 We had over 14 refrigerators, over a ton of tires. We

1 just recently -- when I say recently, this was within the
2 last 60 days.

3 One of the community residents had her home
4 burned. We did the demolition and disposed of that. We
5 had a team of firefighters that are on staff that are EMTs
6 and being trained by Kings County Fire Department. We
7 have our own fire department on staff. And we also
8 donated to Kings County a water tender which would
9 actually be the nurse to their squads in fire fighting.
10 And we also support the fire department in their wild land
11 fires and what have you around our facility. So a lot of
12 community involvement.

13 COMMITTEE MEMBER PEACE: It says you're going to
14 have a net increase in capacity of 377,000 tons. That
15 means more money going into the fund you're talking about.

16 MR. HENRY: Right. So the 377 multiply it by 25
17 cents, and that goes to the Kettleman City Foundation
18 where I'm a Board of Director. So I'm looking for the
19 money too for them.

20 COMMITTEE MEMBER PEACE: Okay. Thank you.

21 CHAIRPERSON MULÉ: Any other questions or
22 comments?

23 BOARD MEMBER DANZINGER: I just want to
24 quickly -- on some comments that were made up here. You
25 know, in the overall scheme of things I generally like

1 solutions that happen outside of the landfill that prevent
2 the waste from getting into the landfill in the first
3 place. But a well run bioreactor in a well run
4 facility -- and this has been a well run facility with a
5 good history on compliance -- is a good thing. I mean,
6 over the years, we've raised the bar on landfills in terms
7 of how much more efficiently they operate. How much less
8 of an impact on the environment and the public health and
9 safety they have.

10 This is basically raising the bar again another
11 notch, where we can look at landfills as not just
12 depositories but as laboratories, as places where we can
13 find new ways to deal with the waste to minimize it to
14 conserve the capacity which is a key objective of 939.
15 And while I share Chair Brown's disappointment that you're
16 not able to move forward with capturing this stuff now,
17 because developing a clean alternative form of energy is
18 certainly -- you know, that's the big plus in this. I
19 look forward to seeing you do that.

20 I'm sorry I'm not as organized as everyone else.
21 My notes are in scribbled notes around the pages here.

22 On page 12-9 on the community outreach, I don't
23 know if there's going to be a group here in July from the
24 community, but I'm just wondering -- actually, this is
25 more at staff, Howard. Where it discusses the community

1 outreach, the 1497 hearing on the 10th of May, it sort
2 of -- it briefly summarizes some of the issues that were
3 raised and then very briefly summarizes in one sentence
4 the response by proponents and other operators.

5 I'm just wondering in the future whether it will
6 be more useful for us for these types of permits where,
7 you know, you had 60 people that showed up, and we've been
8 hearing about a lot of 1497 hearings where there were five
9 and ten people that showed up. So I'm guessing that 60
10 people showing up is probably a pretty significant number.
11 That section may be a little bit more elaborative about
12 what specifically those concerns were and what the
13 response was by the proponents and by the operator. I
14 know we get a lot of that here, but I'd like to have it in
15 the item before I come to the meeting so I have a clear
16 sense of what went on at that 1497 hearing and what the
17 key issues were and how they were responded to.

18 MR. HENRY: At that particular hearing, I had
19 done something a little bit different. Typically, I would
20 not ask my employees to show up at a public hearing. Most
21 of those folks that were there were in favor of the
22 project and were employees of the Kettleman Hills
23 Facility. There was probably 20 local folks that were
24 with children that may have been in opposition, but the
25 others were in favor of the project.

1 BOARD MEMBER DANZINGER: Were these folks there?
2 We just got this. I haven't had a chance to read this
3 myself.

4 MR. HENRY: Yes.

5 BOARD MEMBER DANZINGER: They were there.

6 And the other thing I noticed was in the SEIR
7 which was dealt with by the Local Planning Commission --
8 and I also note that no appeals were filed challenging the
9 Planning Commission.

10 MR. HENRY: On both the bioreactor. There was no
11 appeal for zoning for the EIR, for the bioreactor, nor the
12 B-17 which will be coming before you in a few months.

13 BOARD MEMBER DANZINGER: Well, I certainly am a
14 supporter of the EJ issues. I've spoken about it before.
15 It frustrates me though when people come in at least with
16 respect to the Board at the eleventh hour about
17 opposition, and then we find there were junctures in the
18 local approval process that they didn't avail themselves
19 of. I mean, I'm guessing that this Planning Commission
20 findings was a last key stage before it came here, and it
21 was an appropriate place for people to raise these issues.
22 It helps us too, because these issues get better flushed
23 out before they come here if these people use the local
24 process. So anyway, that's just a frustration on my part.
25 But anyways, thanks. Appreciate the

1 presentation.

2 CHAIRPERSON MULÉ: Howard.

3 DEPUTY DIRECTOR LEVENSON: Mr. Danzinger, I
4 appreciate your recommendation. We will on permits of
5 this nature try to get more information into that section.

6 For purposes of this particular item, we can ask
7 the LEA between now and the Board meeting to provide us
8 with some additional information on specific concerns that
9 were raised and what response they provided.

10 We also in talking with our Legal Office will
11 provide you with -- on the Statement of Overriding
12 Considerations attachment there are some proceeding pages
13 we did not include in the attachment that have specific
14 findings that the County Board of Supervisors considered.
15 We will scan that in as well probably as a separate
16 attachment or perhaps a revised attachment. We'll be
17 doing that for your consideration as well.

18 BOARD MEMBER DANZINGER: One last question.
19 Going back to the Class I portion of the facility, the
20 liner underneath the Class I portion of it, what is that?

21 MR. HENRY: Double composite liner system.

22 BOARD MEMBER DANZINGER: Okay.

23 MR. HENRY: So you would have the two 60 mil
24 layers and then a vadose zone layer.

25 BOARD MEMBER DANZINGER: I don't want something

1 that happens that gets blamed on the reactor later.

2 MR. HENRY: When I first spoke about the slide,
3 that's right after I got there. I had the opportunity to
4 move all that material. The last thing I want is it to
5 slide over or any kind of issues.

6 BOARD MEMBER DANZINGER: For many reasons. But
7 one of which I wouldn't want --

8 MR. HENRY: Yes.

9 CHAIRPERSON MULÉ: Okay. Any other questions or
10 comments?

11 Board Member Wiggins.

12 COMMITTEE MEMBER WIGGINS: Yes. I would like to
13 move adoption of Resolution 2006-125.

14 CHAIRPERSON MULÉ: Do I have a second?

15 COMMITTEE MEMBER PEACE: Second.

16 CHAIRPERSON MULÉ: I have a motion by the Board
17 Member Wiggins, seconded by Board Member Peace.

18 Please call the roll.

19 EXECUTIVE ASSISTANT LINDRUD: Member Peace?

20 COMMITTEE MEMBER PEACE: Aye.

21 EXECUTIVE ASSISTANT LINDRUD: Member Wiggins?

22 COMMITTEE MEMBER WIGGINS: Aye.

23 EXECUTIVE ASSISTANT LINDRUD: Chair Mulé?

24 CHAIRPERSON MULÉ: Aye.

25 So that passes unanimously. We can put that on

1 the consent agenda for the next Board meeting next week.

2 Thank you, all.

3 STAFF COUNSEL BLEDSOE: Madam Chair. Sorry for
4 interruption. Michael Bledsoe from the Legal Office.

5 Because staff is going to be providing those
6 findings that were adopted by the Board of Supervisors in
7 connection with the Statement of Override, this matter
8 should not be on consent but should be on the regular
9 agenda for the full Board meetings.

10 CHAIRPERSON MULÉ: Then I have a question. Why
11 weren't they provided to us before?

12 STAFF COUNSEL BLEDSOE: Frankly, it was an
13 oversight on my part. When I reviewed the item, I didn't
14 pick up on the fact the findings were not included in the
15 agenda item itself.

16 CHAIRPERSON MULÉ: Well, it would have been nice
17 if we had all the information prior to so we could just
18 move this forward. I mean, that's the purpose of our
19 Committee meetings, is to move all of this forward, have
20 the discussion at the Committee level, make those
21 decisions, and then move it forward. If it needs to go to
22 the full Board, I guess it needs to go to the full Board.
23 But we don't need to vote on it again, or are you saying
24 we need to vote on it again?

25 STAFF COUNSEL BLEDSOE: Well, yes, you do vote on

1 it just as you do with consent items --

2 CHAIRPERSON MULÉ: Then why did we just vote on
3 it? Can someone clarify that for me? I guess I'm a
4 little confused here.

5 BOARD MEMBER DANZINGER: You're just saying it
6 can't be placed on consent?

7 STAFF COUNSEL BLEDSOE: That's all.

8 BOARD MEMBER DANZINGER: Just can't be placed on
9 consent for the full Board meeting.

10 CHAIRPERSON MULÉ: But it needs to be voted on
11 again at the full Board meeting, is that what you're
12 saying?

13 STAFF COUNSEL BLEDSOE: Yes.

14 CHAIRPERSON MULÉ: I don't know. Is it me?

15 COMMITTEE MEMBER WIGGINS: I don't get why if
16 there's going to be some additional information forwarded
17 to the Board, why that keeps it from going on consent.

18 BOARD MEMBER BROWN: Point of clarification.
19 Once the information is distributed to the Board, at the
20 beginning of the Board meeting on Tuesday, can we take a
21 motion that it be moved to the consent agenda at that
22 time?

23 STAFF COUNSEL BLEDSOE: Yes. You can do that.

24 BOARD MEMBER BROWN: So we will receive the
25 materials within the next 24 hours. The Board will have

1 sufficient time to review them. And then the Chair of
2 this Committee can move that it be moved to the consent
3 agenda?

4 STAFF COUNSEL BLEDSOE: Yes.

5 BOARD MEMBER BROWN: Okay. Thank you.

6 CHAIRPERSON MULÉ: Thank you, everyone, for
7 clarifying.

8 The other thing I have, Howard, is on the letter
9 that we received from Greenaction, I would like for us to
10 respond to them and indicate that we did hold a public
11 hearing on May 10th. Because in their letter on page 2
12 they basically -- and I'll read it. It says, "We demand
13 that any decision made on the solid waste facilities
14 permit," etc. You know, I think that we need to address
15 that with them and indicate that we did hold a public
16 hearing, us and the LEA did hold a public hearing on this
17 already. So that there was one already held. Thank you.

18 Okay. Our final item today is Item 13.

19 DEPUTY DIRECTOR LEVENSON: Madam Chair, if you'd
20 just give me one minute to do follow up on a previous
21 item. Just want to make sure we have some things
22 straightened up.

23 Thank you for allowing a little bit of a delay.

24 This is Item E, Item 13 for the Board. It's a
25 Discussion and Request for Direction on Longer-Term

1 Postclosure Maintenance, Corrective Action, and Financial
2 Assurance Demonstrations for Landfills. I'd like to give
3 somewhat of an introduction, a lengthier introduction than
4 usual on this item.

5 The purpose of this item is to present you with
6 information on the issue of longer-term maintenance of
7 closed solid waste landfills, particularly what should
8 happen after the first 30 years of postclosure maintenance
9 and whether owners and operators should be required to
10 provide financial assurance demonstrations beyond that
11 30-year period.

12 Ultimately, we're seeking your direction on how
13 to proceed. We have several recommendations or
14 suggestions. This obviously is an extremely complicated
15 issue. It's one of the most complicated I've dealt with
16 in my time here at the Board. So we fully expect a lot of
17 questions and want to spend some time trying to explain
18 the issues.

19 This issue of long-term post 30 years, post post
20 30 years, if you will, maintenance has received a lot of
21 attention. The Legislative Analyst's Office's report
22 issued a report in April of 2006 entitled, "Financial
23 Assurances, Strengthening Public Safety of Waste
24 Facilities and Surface Mines," and it directly addressed
25 this issue.

1 The budget that was just passed requires the
2 Board in January of 2007 to provide a supplemental budget
3 report on recommendations that the Board has regarding
4 this issue.

5 AB 2296 by Member Montaez also has provisions
6 that would require extension of financial assurances
7 beyond 30 years and certainly is on its own path and has
8 not affected our process that we've been going through,
9 but we are tracking that as well.

10 Nationally, U.S. EPA continues to look at this
11 issue. It's something that they have never resolved, but
12 they are looking periodically to resolve it. And it's an
13 issue that's come up at various national solid waste
14 conferences. So it's appropriate in my view for the Board
15 to be taking up this issue in the Board's function or role
16 as a policy making body.

17 It's also timely. As Richard will show when he
18 gets into his presentation, we are nearing not next year
19 but within a few years, we are nearing the date when
20 landfills will start going through that 30 years date of
21 postclosure. If the State decides to extend financial
22 assurance requirements for longer than 30 years, in our
23 view this is the time to begin considering how to do that,
24 particularly so that operators and owners will have
25 sufficient time to plan accordingly.

1 Now there are many, many ways to tackle the
2 issues that are in the item. And I'm sure this has not
3 been the easiest item to read.

4 BOARD MEMBER DANZINGER: It hasn't been the
5 easiest item to read three times.

6 DEPUTY DIRECTOR LEVENSON: Only three? It wasn't
7 the easiest item to write either.

8 But I'd like to try to frame a little bit about
9 how we've tried to approach that. And then afterwards,
10 Richard Castle to my left with assistance from others will
11 make a little more detailed presentation and be ready to
12 answer questions.

13 I do want to acknowledge Richard Castle, Garth
14 Adams, Scott Walker, Mike Wochick, Bernie Vlach who have
15 all been working on this issue on my behest for the last
16 two-and-a-half or three years. It's been a tough road.
17 And finally we're here before you to start the public
18 discussion.

19 As I said, we've been exploring this in a series
20 of workshops and working group meetings that started in
21 late 2003. At the same time that we've been exploring
22 this longer-term policy issue, things have become more
23 complicated because of our ongoing experiences at the
24 Class III landfill, the BKK Landfill in the City of West
25 Covina where we've been trying to obtain certified closure

1 of that landfill. Although that landfill isn't closed, so
2 it hasn't even started on year one of its postclosure
3 period, we have learned lessons from it regarding
4 postclosure and closure maintenance plans and financial
5 assurance mechanisms. And the lessons that we've learned
6 are closely related to the longer-term issues that are the
7 core of this item. So to me, it made sense to bring these
8 all together as complicated as it is and as dense a
9 reading material as it generated, rather than have
10 separate items that deal with the same basic issues and
11 cover the same basic parts of the regs. It just didn't
12 make any sense to split it up. There wasn't any neat way
13 to do that.

14 In listening to the presentation today, we'd like
15 to ask that you keep really one primary distinction in
16 mind, and it drives what we're seeking your direction on.
17 We're specifically distinguishing what you might call
18 normal postclosure maintenance activities, things like
19 maintenance of the gas collection system and the kinds of
20 things that are going to be done on year-to-year yearly
21 basis. Distinguishing those normal activities in the
22 financial demonstrations that are associated with them
23 from what we might be calling longer-term catastrophic or
24 corrective action, events at a landfill and financial
25 demonstrations that could be required of those.

1 The normal postclosure maintenance activities are
2 currently required as we practice it for a minimum of 30
3 years after closure. Currently, however, financial
4 assurance demonstrations for those activities are only
5 required for the first 30 years, even though this normal
6 maintenance will likely be required for a longer period of
7 time at most if not all landfills. In contrast, this
8 should be distinguished from the issue of whether to
9 require financial assurance demonstrations for corrective
10 action events. These are known as reasonably foreseeable
11 corrective actions that could involve repair or
12 replacements of major portions of the environmental
13 control system, such as replacement or repair of the final
14 cover, something that might not happen for a long time at
15 any particular landfill, but we can expect that there's a
16 probability that it will happen some date in the future
17 sometime past 30 years.

18 Current postclosure maintenance cost estimates
19 and the financial demonstrations that are required do not
20 cover all of these potential events that may occur at a
21 landfill over this longer term period. So that is the
22 primary distinction. Normal postclosure maintenance and
23 the more catastrophic corrective action requirements.

24 We are suggesting that the issues related to
25 these normal postclosure maintenance can be dealt with now

1 in a rulemaking. We believe it's feasible now to extend
2 the financial assurance regulations for longer than 30
3 years for these normal postclosure maintenance activities
4 and to modify the existing financial assurance regulations
5 to allow owners and operators to meet this obligation
6 without substantially increasing their costs.

7 In addition, we think this rulemaking could
8 include issues related to improving the various closure
9 and postclosure maintenance plans and financial assurance
10 demonstration based on what we learned from the BKK
11 situation. We also suggest that the rulemaking require
12 plans that describe the potential corrective actions in
13 their costs, but not that we include requirements for
14 financial assurance demonstrations at this point in time.
15 So one thing that we are seeking is your direction to
16 initiate the informal phase of a rulemaking that covers
17 those issues.

18 With respect to the second part requiring
19 financial assurance demonstrations for the longer-term
20 corrective actions, this could be quite expensive. And
21 how to do it is much more complicated than simply
22 extending the financial requirements for the normal
23 maintenance activities.

24 We believe more detailed study by experts and
25 risk analysis and financing is needed before we come back

1 to you with a recommendation on whether and how to proceed
2 on that. So we are proposing just conceptually right now
3 to study the availability and applicability of financial
4 assurance mechanisms that could be used to cover these
5 known or reasonably foreseeable corrective actions. The
6 things that could be included in the study are options
7 such as a statewide pool of funds that would be available
8 for catastrophic events or insurance coverage that would
9 be based on potential corrective action risks posed by
10 individual landfills.

11 This would obviously require contract funding.
12 So if it were so directed, we would go ahead and develop a
13 scope of work and return to you at some future time later
14 this year with suggestions on how to proceed in a
15 competitive bid process to go down that path.

16 So to wrap up my intro, I want to reiterate that
17 we're seeking your direction on two things. One is
18 whether to start the informal phase of a rulemaking that
19 it's primary focus would be to extend financial assurance
20 requirements beyond 30 years for normal postclosure
21 maintenance activities and to refine our financial
22 assurance mechanisms and fine tune some of our other
23 regulations accordingly. And then secondly, whether or
24 not to develop a study on the corrective action financial
25 assurance requirements.

1 So I'm going to turn it over now to Richard
2 Castle. He'll first explain the longer-term issues, talk
3 about BKK, and then describe the rulemaking and the study
4 in a little bit more detail.

5 And with that, Mr. Castle.

6 And you'll notice a slide that's a little
7 familiar, very similar to what we saw on the last item.

8 CHAIRPERSON MULÉ: Excuse me. We have a question
9 here from Board Member Wiggins.

10 COMMITTEE MEMBER WIGGINS: Well, on the first
11 item that you want guidance on, Cindy Montaez bill would
12 maybe solve that. So is that -- if that got signed into
13 law, then that's taken care of; right?

14 DEPUTY DIRECTOR LEVENSON: In that bill passes,
15 yes, we would be required to initiate a rulemaking for --
16 at least based on the latest version of the bill, the
17 extending the financial assurance requirements beyond that
18 30-year period for the normal postclosure maintenance
19 requirements.

20 COMMITTEE MEMBER WIGGINS: Okay.

21 (Thereupon an overhead presentation was
22 presented as follows.)

23 MR. CASTLE: Hello. I guess it's not morning any
24 more. My name is Richard Castle, as Howard said. I'm a
25 research program specialist in the Financial Assurances

1 Section.

2 And the slide you're looking at we've used a
3 number of times in the past, and it looks very similar to
4 the last presentation you had. The particular item at the
5 end, the same containment failure is what we're talking
6 about, any kind of a problem in the future as the landfill
7 is under postclosure maintenance well beyond the 30 years
8 most likely.

9 --o0o--

10 MR. CASTLE: What I want to talk about today is
11 the current requirements for postclosure maintenance
12 activities at the site are for at least 30 years. And as
13 Howard said, we also only collect right now 30 years worth
14 of funding assurance. So the basic question there is what
15 happens in year 31. And we don't expect everybody to go
16 out of business year 31, and that would hopefully not
17 happen with anybody. But when you're asking for an
18 assurance to keep the taxpayers from spending money,
19 that's exactly what we're trying to keep from having
20 happen and having it fall on the general public to have to
21 pay for it.

22 --o0o--

23 MR. CASTLE: We've had, as Howard said, a number
24 of meetings. We had two workshops within the Committee
25 structure: November of 2003, December of 2004. And then

1 we've had working group meetings in August and October of
2 2005, and then another one in January of 2006 where we've
3 discussed this at length with operators, the environmental
4 community. We invited everybody we can think of to come
5 to these meetings and air it, and let's talk about what
6 ideas are out there and how to solve these.

7 And this slide is the first part of the consensus
8 that I believe we took from the notes from those meetings,
9 and that's that everybody acknowledges that their
10 responsibility for the closed landfill does not end at the
11 30 years. However, the operators that have trust funds
12 and the operators that have an enterprise fund which is
13 the counties and the cities that have cash put away to do
14 that postclosure maintenance expect to be able to access
15 those funds.

16 The operators that have an insurance policy, such
17 as BKK, the insurance policy for that postclosure
18 maintenance is going to pay out to the operator over the
19 30-year postclosure maintenance period. And any of those
20 as they're currently designed are going to be out of money
21 at the end of 30 years essentially.

22 A problem we've encountered obviously with BKK
23 and with all landfills right now is that the construction
24 costs have inflated dramatically, not keeping in line with
25 just inflation over the years. We followed the federal

1 requirement of adding an inflator to each cost estimate
2 based on inflation, and that's what happens across the
3 entire country. And then periodically the plans have to
4 be updated also. But the normal inflation is not keeping
5 pace with what's actually happening with construction.
6 That was a consensus item. Corrective action costs and
7 postclosure maintenance costs are sometimes interchanged.

8 The plan's drawn up for what's expected to
9 happen, but then when something that could be considered a
10 postclosure maintenance item comes along, there's a pot of
11 money sitting at the postclosure maintenance that
12 obviously everybody wants to be able to access if there's
13 a problem. We have separate funding requirements under
14 the Water Board's requirements right now that the Board
15 does the financial assurance demonstrations for all known
16 or reasonably foreseeable releases from the landfill.

17 And I don't want to belittle that requirement by
18 any means because it's there and we're using it, but it's
19 not -- for the Board's process, it's not given the same
20 weight as the closure and postclosure maintenance plan.
21 You don't hear about how the corrective action plan is
22 developed and approved when you hear a permit here because
23 it's not within our authority when we're considering a
24 permit for a landfill. We're only looking at closure,
25 postclosure maintenance, and then operating liability. So

1 the corrective action is this fourth item that sits
2 outside. And we see that as a problem for staff. And
3 whether or not you as the Board see that as a problem or
4 not, it's your decision to make. And that's one of the
5 things we like to raise.

6 --o0o--

7 MR. CASTLE: We have 282 landfills in the state
8 of California that fall within our financial assurances
9 requirements. There's a date specific in the regulations
10 when the landfill that was operating -- January 1st, 1988,
11 every landfill that was operating at that time and
12 continued to operate had to provide us with financial
13 assurances. Of those, 116 of them have closed at this
14 time. They are in postclosure maintenance. And as the
15 numbers work out, by 2021, that first landfill will have
16 completed its 30 years of postclosure maintenance.

17 So that's where Howard was saying we're already
18 getting close to that date. That's not that far away. I
19 can remember shortly my son going to kindergarten, and
20 he's in college. So time passes very quickly. By 2040,
21 all 116 of those currently closed facilities their 30-year
22 postclosure maintenance will be done. Doesn't mean the
23 landfill is going away. It means that the money that we
24 have assured is going to be used up.

25 --o0o--

1 MR. CASTLE: This graph just represents the
2 percentage of each of those facilities, the ones that are
3 currently in postclosure. And as we progress over the
4 next 21 years, the percentage of them -- and I believe
5 those numbers should work out to 100 of the -- 100 percent
6 of the facilities.

7 --oOo--

8 MR. CASTLE: In looking at this -- and this was
9 presented during one of the workshops also. The net
10 present value of the unfunded postclosure maintenance
11 liability for those 116 facilities by the year 2040 is
12 \$150 million. About 85 percent of that is represented by
13 publicly operated sites. By the year 2054, which is only
14 another 14 years past that, that cost rises to more than
15 \$600 million. And we're talking about 77 percent of those
16 being publicly operated sites.

17 And the reason we're actually identifying that as
18 publicly operated, we want to pull that out specifically
19 is that the public operators for the most part for
20 postclosure maintenance have what's called a pledge of
21 revenue agreement. And they've identified a revenue
22 source. The revenue source has to last for 30 years. And
23 while that's pretty good for us, we don't have a whole lot
24 we have to track, other than the fact we have the
25 authority to collect the money on an annual basis to pay

1 for postclosure maintenance. Those will need to be
2 modified.

3 We're trying to show you a little bit of a
4 comfort level that the sky is not falling though is the
5 City of West Covina, if they were operating a facility,
6 they're not going to go out of business. What we have to
7 deal with is we have to keep everybody providing
8 assurance, whether private operator or public operator.
9 Public operators do have financial problems as well as
10 anybody else, any other operator does. And we want to
11 make sure that they have in their financial system the
12 ability to absorb these costs beyond 30 years. We don't
13 want anybody thinking that the landfill goes away. And
14 nobody does think that. We need the assurance at the
15 State level that everybody will have planned for it in an
16 appropriate manner to be able to continue to fund.

17 --oOo--

18 MR. CASTLE: This graph is from one of the prior
19 meetings also, and it's a graphical representation of most
20 of the information on the slide prior -- you'll notice it
21 doesn't go up to 600 million. But the kind of purplish
22 blue section is the unfunded portion of postclosure
23 maintenance, and that area is what would equal 600
24 million. So don't try to correlate the numbers on the
25 left-hand column with the statement that was made earlier.

1 That's how that works out. So you can see the red is the
2 amount of funding that we have, and the purplish blue is
3 the amount that we do not have.

4 And all these costs are only the normal
5 postclosure maintenance costs. None of these are
6 considering a catastrophic failure. None of these costs
7 are representing even excessive construction cost
8 increases. We're hoping and anticipating that the ongoing
9 maintenance of a facility will have actually a reduced
10 cost as time goes along, other than the possible
11 replacement of items as they wear out. The mowing of the
12 lawn, if you will, should not increase significantly.

13 --o0o--

14 MR. CASTLE: And that's the first point here is
15 that the regular expected annual postclosure maintenance
16 costs. The unexpected costs which hopefully we can work
17 out a way to cover are the earthquakes, the floods, the
18 flooding rains, none of that is included here. So if we
19 had a huge wet winter and there was a major cost
20 associated with that with a closed facility, that would
21 not have been included in those normal postclosure
22 maintenance costs we were just looking at.

23 Also not represented are the repair and
24 replacement costs for the control systems. Whether it's
25 the cover or whether it's the major portions of the

1 leachate collection system failing or wearing out or a gas
2 collection system wearing, all those unexpected costs are
3 also expected to outpace the current postclosure
4 maintenance costs at a closed facility. And any specific
5 questions on that, I'll have our engineers come up and
6 answer. I'm just looking at the bottom line.

7 --o0o--

8 MR. CASTLE: Actually, I wanted to say this at
9 the beginning also. If anyone has any questions, we can
10 sit here and bore you all day long just talking. So if
11 you have some questions, go ahead and interrupt us and
12 we'll jump on the question.

13 The lessons learned if you will from the BKK
14 Class III landfill are that we need to strengthen our
15 oversight over closure and postclosure maintenance plans.
16 We need to apply more focus and resources to review and
17 approve the final projects tied to land use changes and
18 redevelopment. And this is staff's opinion obviously.
19 That's why we're presenting it to you. And we need to
20 allow solid waste disposal and co-disposal site program
21 which we call AB 2136 for use at landfills for closure
22 activities. Right now it's limited to corrective action
23 cleanup -- remediation projects.

24 --o0o--

25 MR. CASTLE: We also -- and this is the heart of

1 where I'm working is we need to clarify and strengthen our
2 existing insurance requirements for financial assurance
3 mechanisms. It's not comfortable as staff when you think
4 you have a nice solid policy in front of you that says
5 exactly how much it's going to pay and you are asked to
6 negotiate down that price because we can either go to
7 court or we can negotiate how we're going to get a pay out
8 from that policy.

9 So we want to look at the regulations as we have
10 them and clarify further that when the Board makes a claim
11 for the face value of a policy, that's exactly what we're
12 going to get without consideration of whether the operator
13 has completed making all their premium payments or any
14 other concerns that will pop up. We had a similar problem
15 with a waste tire facility that was the Oxford site that
16 became the Filbin tire facility by names. But where we
17 had trouble with an insurance company with making a claim
18 on that, whether they were going to pay first or we had to
19 come up with the money first. So we changed the regs
20 after that situation and tried to strengthen that up. And
21 now again we have a situation where we see that we yet
22 again need to clarify the regs further so that what we get
23 is what we think we have, or at least hopefully that's
24 what's going to happen.

25 The other item there is that we need to

1 strengthen the requirements for updating the cost
2 estimates. And that's where we're talking about the
3 construction costs have really increased a lot which is
4 well beyond inflation.

5 Part of that would be that we realize that while
6 the current requirements say it's for third-party cost
7 estimates, so if the Board stepped in, we could use the
8 money, we're not -- it's not clear in the current
9 regulations that those third-party costs should include
10 prevailing wages, which is what the Board would have to
11 pay if the Board were to step in to close the facility.
12 As a State agency, we would have to pay contractors under
13 a prevailing wage scenario. So we need to clarify the
14 regulations for that situation.

15 And we need to look at whether we can come up
16 with a better cost escalator than the current inflation
17 number we use, which is the same number that we use
18 nationally. The entire country is using it, but it's not
19 necessarily working in the entire country.

20 Yes, question.

21 COMMITTEE MEMBER WIGGINS: Yeah. Did the City of
22 West Covina fund all of the cleanup of BKK? Or who else
23 stepped up?

24 MR. CASTLE: You're talking about the premium
25 payment or the closure funding?

1 COMMITTEE MEMBER WIGGINS: What I read is that
2 City of West Covina was active on the issue. But who was
3 responsible for helping?

4 DEPUTY DIRECTOR LEVENSON: The owner/operator,
5 which is BKK Corporation, is responsible for maintaining
6 its financial assurance demonstrations. In this
7 particular case of the Class III landfill -- you have to
8 ask Scott for the exact date -- but the City did step in
9 and pay some of the insurance premium for BKK. But BKK is
10 still -- the company is still the responsible entity.

11 COMMITTEE MEMBER WIGGINS: Who handled the
12 cleanup? Or there was leakage and they had to evacuate 21
13 households.

14 DEPUTY DIRECTOR LEVENSON: Right. Back in -- I
15 can't remember exactly when that was. But back in the
16 '80s or so, there was an evacuation due to some gas and
17 leachate issues.

18 Most recently we've been involved -- and we can
19 certainly provide you more information on this -- with
20 emergency response in conjunction with Department of Toxic
21 Substance Control. There has been erosion of the drainage
22 system at the site which covers -- the drainage system
23 covers both the Class I hazardous landfill and the Class
24 III municipal solid waste landfill. Last year, the Board
25 authorized the expenditure of some monies from the Solid

1 Waste Cleanup Fund to help remediate that particular storm
2 drain. Otherwise, it would have been another situation
3 where there would have been imminent public health and
4 safety threats.

5 But that was not -- those moneys were not used
6 for the actual closure of the landfill. That is still
7 going on right now using those moneys that are in the
8 financial assurance fund. And we're hoping that BKK is
9 closed and certified closed next month. We keep saying
10 next month, but we're hoping.

11 COMMITTEE MEMBER WIGGINS: So the Board actually
12 helped fund that emergency situation?

13 DEPUTY DIRECTOR LEVENSON: That's correct. Just
14 in terms of the remediation, not in terms of the closure.

15 COMMITTEE MEMBER WIGGINS: Right. Because the
16 cities and counties are broke, and I don't know how they
17 can step in. But the City of West Covina I guess did do
18 something.

19 DEPUTY DIRECTOR LEVENSON: Right. They paid both
20 a -- two different premiums. One was for the Class I
21 landfill, that hazardous waste landfill. And one was for
22 the Class III landfill that we are involved in.

23 Since that time on the Class I site, the
24 Department of Toxic Substances Control has entered into an
25 interim settlement agreement with the responsible parties

1 who contributed hazardous waste to the Class I site. So
2 those responsible parties have now taken over at least for
3 the next two years the closure and postclosure maintenance
4 of that Class I site. Under our statutory frame
5 regulations, we do not have the authority to go after any
6 responsible parties for those kinds of activities.

7 COMMITTEE MEMBER WIGGINS: Thank you.

8 --o0o--

9 MR. CASTLE: The next part of the presentation
10 will be a little bit more detail about what we would like
11 the authority to go forth and start a rulemaking with,
12 which doesn't mean we finalized anything by any means. We
13 would have a lot of information to take out to the public
14 and have them look at. And these three bullets are
15 basically the headings of what's coming up, should the
16 financial assurances for postclosure maintenance be
17 extended beyond the 30 years. And if the financial
18 assurances is required for greater than 30 years
19 postclosure maintenance, what form should it take? And
20 what else should be included in the cost estimates for
21 postclosure maintenance and corrective action plans?

22 --o0o--

23 MR. CASTLE: So if the Board were to decide that
24 we should extend financial assurances beyond 30 years and
25 explore that further, we would need to be clarifying the

1 requirements that it currently says for 30 years. We need
2 to clarify it says for a minimum of 30 years and it must
3 be maintained until the waste no longer poses a threat.

4 That's essentially the same language that the
5 closure and postclosure maintenance plan describe. The
6 plan describes maintenance of the facility until the waste
7 no longer poses a threat. So we need to link the
8 financial assurances with what the current plan is. And
9 that's basically what the AB 2296 bill at one form was
10 doing anyway. And I didn't look at the latest version of
11 it. But they are just putting in statute what we want to
12 do in regulations.

13 We would need to expand the regulations to
14 require preparation and submittal of known or reasonably
15 foreseeable corrective action plans for all landfills.
16 And that's where I was mentioning earlier that we'd like
17 to elevate that plan to the same level as the closure and
18 postclosure maintenance plan so that it gets the respect
19 it deserves.

20 --o0o--

21 MR. CASTLE: We would want to clarify the
22 closure/postclosure maintenance and corrective action cost
23 estimates be based on the costs the State would incur.
24 It's an assurance to us that the funds are there if we
25 have to step in. And it needs to represent the costs we

1 would pay for them to step up.

2 We would want to clarify the financial
3 demonstrations must also assure that the funds are fully
4 available upon requests by the Board, regardless of any
5 side agreements such as complete payment of premium if
6 it's an insurance policy.

7 That same kind of thing works for trust funds,
8 also because trust funds, the money that's sitting there,
9 it's very specific that they have to be available within a
10 reasonable amount of time. Not all of it's invested short
11 term. The trust operators quite often contact us and ask
12 us how much longer is this facility going to be operated,
13 because they're trying to make decisions on what kind of
14 investment to make. Ultimately, if we were to ask a bank
15 holding a trust agreement to release the funds to the
16 State, they would do it. It happens when it's asked for.
17 It's not a negotiated amount at that point. It's whatever
18 the current market value of that trust is.

19 We have other issues that need to be addressed
20 about the inflation and which I'm not sure if we're going
21 to get a really better number there. But we need to
22 explore that possibility.

23 One of the biggest things that would happen is
24 that we have a 20 percent contingency on closure cost
25 estimates. We don't have any contingency required on the

1 postclosure cost estimates. That would be a pretty simple
2 one to add 20 percent to a postclosure maintenance plan,
3 is a significant cost increase on postclosure maintenance.
4 If that was linked with how we can spread out the ability
5 of this assurance to survive beyond 30 years, obviously a
6 bigger number will survive for longer also. So it helps
7 get us in that direction.

8 --o0o--

9 MR. CASTLE: If it's required to be greater than
10 30 years, what does it have to look like, it takes a very
11 minor modification to a trust fund or enterprise fund or
12 revenue agreement to make it survive beyond 30 years. It
13 would take a minor modification to a financial means trust
14 from companies, or there's also a local agreement
15 financial test available also. And that would need a
16 minor modification to say it's going to last until the
17 waste no longer poses a threat, not 30 years.

18 If we were talking about postclosure maintenance
19 insurance, we're going to have to sit down with the
20 insurance companies and talk about how to fix that in more
21 detail and the other mechanisms, because they collect a
22 premium based on paying out a certain amount every year
23 for 30 years, and we don't necessarily have a date. We
24 can't tell them 40 years -- or 40 years or 50 years or 100
25 years, whatever the number is. We don't have a number.

1 We just know it goes on 30. That would be a little bit
2 more difficult to fix that, not that we wouldn't be
3 capable, but a little more problematic.

4 We did sit down with the numbers the Board earns.
5 The Board, when we have money that we're using for
6 projects, it's our understanding it goes into a fund
7 called the Surplus Money Investment Fund. And since 1990,
8 that fund has averaged just over 4 1/2 percent. Over the
9 same time frame, the inflation factor that we use doesn't
10 take into account the huge construction costs recently.
11 But otherwise, it's pretty close. The inflation factors
12 were just under 2 1/2 percent, leaving net earnings of
13 just over 2 percent. That's not enough to significantly
14 increase a fund.

15 And when we were going here with this little
16 exercise that is we just locked up to 30 years of money in
17 a trust fund, said you can't touch the principle, you can
18 only use the interest, it doesn't stretch it out. It will
19 make it for about 40 years. If we add a 20 percent
20 contingency to most closure maintenance cost estimates
21 stretch it out 50 years based on these returns -- these
22 are very conservative returns. That's what the Board
23 earns. A sharp investment professional can probably earn
24 significantly more than that, but we have to look at what
25 we can earn if it was in the Board's hands. It's going to

1 take more than just locking up the principle. It's going
2 to take more than just a 20 percent contingency added to
3 it, but we need to study what that's all. That is just a
4 quick run by us to see where we can be simply. And it
5 also does not take into account any excessive postclosure
6 maintenance bubbles, those little containment failure type
7 things.

8 --o0o--

9 MR. CASTLE: This is a graphical representation
10 of those numbers, the red area being the fund value. The
11 annual expenses being the yellow bar on top of it. And as
12 you can see, it runs out. Like I said, we can stretch
13 that out, but it still goes away. There's I'm sure a nice
14 number that we can figure out, but we haven't got to that
15 point yet.

16 --o0o--

17 MR. CASTLE: And we don't want to do it ourselves
18 either. We would like input from industry, from the
19 financial industry, the operators themselves, the
20 insurance industry, everybody.

21 There's also the additional potential financial
22 demonstrations which would be an annuity which actually is
23 kind of the idea of that trust fund, how can we make this
24 thing last. Annuities are provided by insurance companies
25 for the most part.

1 There's a policy called the guaranteed income
2 contract which has been talked about at some of our
3 workshops, which is essentially what the closure and
4 postclosure maintenance insurance demonstrations that we
5 are receiving at this point. But those are based on a
6 time model. So how long do you need the money. They
7 figure out how much premium to charge. They know what
8 kind of interest rate they're going to get. So we need to
9 look at that as a possible additional financial
10 demonstration.

11 And then we always talk about combining our
12 mechanisms. We currently allow almost all of our
13 mechanisms to be mixed with each other. We tried for the
14 maximum flexibility with operators. What's considered
15 here also though is that we might talk about combining an
16 insurance policy. We want to consider the possibility of
17 requiring combinations of mechanisms so that maybe we have
18 a trust fund, but we have an insurance policy to cover
19 those additional exposures. We need to explore that. We
20 aren't saying today by any means we have an answer to
21 that. That's what we need to explore.

22 --o0o--

23 MR. CASTLE: And yet we go one more. The
24 existing mechanisms. This is just the nuts and bolts of
25 what I talked about earlier. We need further

1 clarification of our insurance trust funds, all of that
2 need to further clarified. We need to be able to go
3 forward with figuring out with insurance policies how to
4 clarify situations such as premium payments and how that's
5 outside of our consideration as a Board. That's between
6 the operator, and the insurance company needs to sign off
7 on the fact they realize that. If we ask for the money,
8 we really mean we want the money. We need to look at how
9 to inflate the cost estimates. We should be looking at --
10 as staff, we believe we should be looking at prevailing
11 wages in those cost estimates.

12 --o0o--

13 MR. CASTLE: Complete costs of postclosure
14 maintenance.

15 COMMITTEE MEMBER WIGGINS: I have a question on
16 prevailing wage. You mean in making the rules that you
17 would determine whether or not you're going to pay
18 prevailing wage? I don't understand.

19 MR. CASTLE: The State is required if we hire a
20 contractor to pay the prevailing wages. We don't make up
21 those wages, but they're identified. The current cost
22 estimates from operators are supposed to show a
23 third-party cost estimate. But they don't necessarily
24 include a prevailing wage cost estimate, because operators
25 are not required to pay prevailing wages. Only the State

1 is. So as an assurance, what we're saying is we need to
2 clarify the regulations that since it's an assurance to
3 the State that the money is there should we have to step
4 in, we want it to have a prevailing wage aspect in that
5 cost estimate so that we have enough money to hire a
6 contract ourselves.

7 COMMITTEE MEMBER WIGGINS: That's clear. Thank
8 you.

9 MR. CASTLE: We want to actually get --
10 postclosure maintenance cost estimate calculations should
11 be amended to identify complete costs with actual
12 operating facilities. We realize that there could be some
13 things outside of what we're looking at right now. We
14 want to be able to look at that.

15 The demonstrations should be based on true
16 expenditures. Right now, we have a cost estimate that's
17 been kind of annualized for the 30-year postclosure
18 maintenance cost. An operator can make a request for
19 1/30th of their current demonstration. As long as they're
20 maintaining the closed facility as they're supposed to,
21 that's what kind of a release they get because they've
22 gone through 1/30th of their postclosure maintenance.

23 And we would like to clarify in the regulations
24 that you're actually going to show what your expenditures
25 are in some form. So we don't want to make it too

1 problematic for them to identify. We don't want to be
2 looking at every invoice by any means. It's there. We
3 always look at it as it's the operator's money. It's just
4 in safekeeping so that postclosure maintenance can happen.
5 We don't need to inspect your paperwork on either their
6 part or ours. But we need to look at their true costs on
7 an annual basis.

8 Because, for example, if they're just mowing the
9 lawn for the first five years, their costs are not the
10 same as if they had calculated in that the replacement of
11 some of the wells, their gas collection system, whatever
12 little pieces in the first 30 years that is going to wear
13 out. They'll have calculated that into the postclosure
14 maintenance plan. But it's spread out over the full 30
15 years. We would like to see the plans more specific on an
16 annual basis so that we release the correct amount each
17 year when they have one of their bigger expected
18 expenditures, not a corrective action, but an expected
19 replacement of something, the money will be there for that
20 year to release to them. But that's still all of the
21 normal postclosure maintenance stuff. We just need
22 further clarification.

23 We would like to see contingencies similar to the
24 closure cost contingencies. And we would like to have put
25 into the regulations authority to require the operators to

1 give us some as-built costs for these completed projects
2 so that we know whether what was actually estimated up
3 front and what was approved through all the processing
4 when it came down to being completed, how much -- how
5 accurate was that. Were they short? Did they have excess
6 funds? Was it right on target? Just so that we have some
7 real world situations which will help us get beyond that
8 just adding the inflation number to it. And hopefully be
9 able to catch these large increases in construction costs
10 so we can plan for those kinds of things.

11 --o0o--

12 MR. CASTLE: That's the end of the regulations
13 portion. We'd also like to have the Board consider doing
14 a study. This is where we would need to come up with some
15 contractor money most likely. And that, Howard touched
16 on, would be what we're looking at is some kind of a
17 statewide study to look at the possibility of a pooled
18 fund across the state for longer-term care and corrective
19 actions based at closed facilities, and also the
20 possibility of using insurance coverage for those costs at
21 closed facilities that are not already identified and
22 otherwise -- that should say assured to the State, not
23 insured.

24 We need to look at that broader picture. And
25 that's what that study would do. We don't have

1 necessarily the staff expertise to do that kind of
2 detailed study on a statewide basis. And we would be
3 asking the Board is if that was acceptable to be looking
4 at contract money to hire somebody to do that for us.

5 I think that's my last slide. And Howard has a
6 wrap up for us. But any questions, be happy to answer.
7 Like I said, we can talk about this all day, but I don't
8 know if you want to hear about it all.

9 CHAIRPERSON MULÉ: Well, I would like to talk
10 about this all day, but we do have another meeting at
11 1:30. So unfortunately we can't do that today.

12 Howard, do you want to wrap up?

13 DEPUTY DIRECTOR LEVENSON: I don't have much of a
14 wrap up, other than to reiterate we are seeking the
15 Committee's direction at some point to proceed with the
16 informal phase of a rulemaking. And that will entail a
17 lot of public workshops and more detailed language on all
18 of these issues. And on the study which we envision would
19 have to look at different criteria for what poses risks at
20 different landfills, urban versus rural, proximity to
21 different threat factors such as faults or lines or water
22 sources, things like that, that is something we're going
23 to have to come back to you with a specific scope of work.
24 I don't have a cost estimate at this point. You know,
25 we'll have to develop that. But it would be several

1 hundred thousand dollars probably. But we would come back
2 to you. And if you at least wish us to continue pursuing
3 that direction, whether or not we're able to get final
4 approval on that, is something to be determined in the
5 future.

6 CHAIRPERSON MULÉ: Okay. We do have two speakers
7 here before we take questions for staff. So what I'd like
8 to do though if it's possible if you could limit your
9 comments to five minutes. Our first speaker is Peter
10 Anderson.

11 MR. ANDERSON: Thank you have much, Madam Chair.
12 My name is Peter Anderson. I'm the Executive Director of
13 the Center for a Competitive Waste Industry.

14 And because there are new members here, perhaps I
15 should introduce myself and why I'm here. The staff of
16 the Board initiated this proceeding on financial assurance
17 back in 2003. And at that time, the Sierra Club
18 California was very much of the thought this is kind of a
19 zero sum game the way it shakes out, and there needs to be
20 a very assertive public presence. And they called us to
21 provide more expertise on this issue. And that's how we
22 came into this.

23 And I want to very first aspect -- I followed
24 this issue around the country. There are many states that
25 are concerned about this, New York, Wisconsin, Georgia.

1 But California is the only state who's actually gotten off
2 the stick and proceeded to move to systematically address
3 this issue. And I want to do -- very first thing I want
4 to do here today is commend you for having a staff -- to
5 paraphrase someone in terms of regulatory, it's a shining
6 city on the hill in terms of what's going on in this
7 country, and they should be proud and awarded for that.

8 But let me just do two things because I notice
9 the big hand is on the twelve and little hand is on the
10 nine. And this is not the rulemaking hearing. It's just
11 a frame up. I want to do two things if I would, Madam
12 Chair.

13 One is what are the goal posts that you want to
14 give to the staff? And the second is are there private
15 sector free market ways of addressing the big ticket issue
16 here that need to be thought about and brought into play
17 even more as staff is alluding to. And I want to do two
18 things. And I will be glad to meet with you individually
19 to talk about the details as time permits.

20 As a legislative debate elucidated, there are two
21 ways to defining what are the goals. What's the target?
22 What are you trying to achieve? One way of doing that is
23 to say how can we give the companies the most flexibility,
24 which is another way of saying how can we make it as least
25 costly as possible. The other way to do it is to say

1 let's make sure that the state taxpayers do not wind up on
2 the hook.

3 And there are two opposite approaches. And you
4 in terms of the policy have to give your staff -- let me
5 tell you why, in terms of the first point I'd like to
6 make, why the first approach of the goal post does not
7 work. South Carolina did that. The Pine Wood Landfill
8 next to Lake Marion sits on top of two aquifers in South
9 Carolina that provide the drinking water for the whole
10 coastal population. It's a hazardous waste landfill. And
11 in 1994, after years of going around and around, the staff
12 and the Board and the Department of Environmental Health
13 Control said we simply have to get some funding for
14 assurance from Safety-Kleen that this landfill will not be
15 a burden on the State. And they demanded at that time in
16 1994 \$133 million bond, performance bond.

17 What Safety-Kleen did, they instead they spend
18 \$250,000 lobbying the Legislature. They got new Board
19 members the following year. And the new Board members
20 reversed the policy and said that assurance can be
21 provided by any mechanism that Safety-Kleen deems
22 appropriate. So instead of providing a surety bond, what
23 Safety-Kleen said is we're a \$2 billion corporation.
24 We're solid as a rock. We're going to give you an IOU.

25 Year 2000 something happened that made South

1 Carolinians very, very worried. The corporate office
2 decamped to Delaware and next month the company went
3 bankrupt. And they offered South Carolina a very, very
4 confusing thing that sounded like an annuity for \$49
5 million. When the staff of the Board was saying, the cost
6 liability is going to be a billion dollars, and all that
7 South Carolina got offered in bankruptcy court was \$49
8 million which is just to maintain the site until you
9 figure out what to do about it.

10 So because of that compromise, they allowed them
11 to use corporate IOUs and other things like that to give
12 them flexibility. The state of South Carolina is winding
13 up with a billion dollar liability.

14 So you have to understand that the choice between
15 flexibility is an enormously -- is a conscious decision to
16 put billions of dollars of liability on the taxpayers of
17 the state of California.

18 That's when I get to the second point of this. I
19 think I distributed some photographs. And I'm sorry I
20 don't have a PowerPoint. But it must be understood that
21 when the Subtitle D regs got adopted in 1991, effective in
22 1994, people thought all those additional regulations, the
23 tipping fees of \$30 were about to double. Do you know
24 what happened? The tipping fees went almost in half.
25 Enormous amount of more regulations, they got cut in half.

1 And the reason that happened was that the insight
2 of the companies was if you build it higher and higher and
3 higher over the same underlying infrastructure where the
4 costs were, you drive the unit cost down. And that led to
5 a whole onset of megafills. And what's never been
6 contemplated in the process of looking at this is what
7 does megafills mean? Megafills has never been simply
8 scaled up without any testing. And when you make a
9 manmade mountain 100, 200 -- Puente Hills is 1,027 feet
10 high -- what you do is make a mountain that can come
11 crashing down if the site stability is compromised.

12 This is what happened in 1996 -- March 7th, 1996,
13 in Rumpke Landfill next to Cincinnati. The landfill came
14 crashing down catastrophically. And if you look at page
15 43 of the report -- I'm sorry, Member Danzinger, I don't
16 have an extra report for you. You'll see a description of
17 what that kind of catastrophic failure was. That was a
18 landfill that was in operation, actively being managed
19 without any seismic concerns at all. Came crashing down.

20 Now in the case of some kind of things we're
21 doing here and the compromises we're making in terms of
22 making things flexible and so forth to keep the costs down
23 currently, this is an aerial photograph of the Sunshine
24 Canyon Landfill, which is probably the worst sited
25 landfill in the entire country. It's right next to the

1 two most active earthquake faults in Southern California
2 on this side. And at the mouth of the canyon, as you can
3 see, is I-5. And the right over here is the aqueduct for
4 the drinking water for 19 million people.

5 Why are we doing a site like this? We're doing a
6 site like this that makes no sense whatsoever in terms of
7 the risks, because they're saving on haul costs versus
8 their competition about \$20 million a year. That goes to
9 the bottom line of this company, Allied BFI. But if you
10 took -- that is going to be 100 to 200 million tons. If a
11 part of that heaves off onto the interstate, who is going
12 to be paying those costs? That's billions of dollars.

13 So the second point I want to make to you in
14 terms of the first point is you're talking about
15 liabilities because of the compromises we made, the
16 willingness to give flexibility of billions and billions
17 and billions of dollars and there's no protection for it.
18 Sunshine Canyon has zero -- as a reasonably foreseeable
19 corrective action, they've posted zero dollars.

20 The system, as a Board and staff has pointed out,
21 has fallen so far behind the risks that if we want to
22 protect the state taxpayers, we have to act with extreme
23 deliberate speed to move forward.

24 Second and last point I want to make is I think
25 that the idea of having the state totally in control of

1 making this thing work to find out how to manage these
2 risks is not going to work. The best example, of course,
3 we see right now in the Katrina example is the national
4 flood insurance raises about \$2 billion a year, and it
5 spends, outlays \$23 billion. There are houses right in
6 hurricane alley being given insurance for \$250. The State
7 doesn't do that kind of work well.

8 If you use the free marketplace, what the free
9 market place has for managing risk is existing systems.
10 One of the leading elements of that is insurance. Have
11 the people who are trained risk managers who don't have a
12 conflict of interest -- how can you ask a company who has
13 a landfill who has a billion of dollars of risk to ask
14 them to monetize that risk? They're not going to say
15 their risk is high. You'd have to be insane. They're
16 going to obviously have a conflict of interest. You
17 cannot rationally ask them for their opinion. The
18 marketplace offers you people who have no interest, that's
19 conflicted.

20 And number three, they're putting their own money
21 behind it. And if you know people are putting their own
22 money behind it, it's going to be a very good assessment.

23 There are other ways of doing it besides
24 insurance that provide incentive for the insurance
25 companies to cooperate well, and those are options,

1 swaptions. And this is a whole exciting area you can get
2 into that provides you with the ability to say a site like
3 Sunshine Canyon with all this risk should be forced to pay
4 those costs so we don't have people for their bottom line
5 making insane decisions for society while Mesquite, which
6 only threatens three track rabbits, has the same kind of
7 risk factor. It's not the case.

8 So that's an exciting way that the study the
9 staff is talking about can provide you with a free market
10 way of handling these very substantial surprise costs.

11 I'd be glad to answer any questions and meet with
12 you individually as time permits so we can all get to
13 lunch.

14 CHAIRPERSON MULÉ: Thank you very much. And
15 thanks for your participation in the working group
16 meetings. I know you've been very involved. So thank
17 you.

18 Our next speaker -- oh, you have a question.

19 COMMITTEE MEMBER PEACE: I know you've done a lot
20 of studies on landfills and all of this. Could you tell
21 me, do you think bioreactors help solve the long-term
22 closure problem?

23 MR. ANDERSON: We have to remember one thing.
24 There is no such thing as a bioreactor. It's an evolving
25 concept. And the concept you hear proposed and things

1 like today -- I have not read the JTD. But just generally
2 speaking today what you're seeing is on the cheap
3 bioreactors. And on the cheap bioreactors are going to
4 have a problem because you're making this manmade mountain
5 hundreds of feet high, and you're liquefying it to various
6 degrees and talking about 45 percent, sometimes 65
7 percent. You're talking about making a mountain the
8 constituency of a wetland. You have basically magnified
9 the problem of site stability and made management of that
10 a very, very high complex problem.

11 And there's no cost factor being put into it.
12 What you want to do if you want to make it conservative
13 and idiot proof, is you make shallower side slopes to
14 overcome mistakes as opposed to the proposal you're
15 talking about today where you're making steeper side
16 slopes, because the shallower the side slope, the more
17 stability you give to it.

18 If you talk about the broader environment, which
19 I'd like to talk to you for one brief second, the defining
20 issue for us today as people is global warming. And if
21 you read what's going on today, we are in a desperate race
22 to find something to do short-term wise to buy us time to
23 make the transition so we don't make the world totally
24 warmed up to the extent we cannot live in it.

25 What the last thing you want to do is take gas

1 production -- remember one more thing. There is no
2 methane in our garbage. Methane only occurs because we
3 bury it in the ground where it's not accessible to oxygen.
4 Otherwise there is no methane, which is 23 times or more
5 potent than CO2. You're taking that methane that
6 shouldn't be in there at all that otherwise would occur
7 way out in the future and bringing it into the present.

8 And number two, you're putting it in a system
9 where you're not able to manage that gas because normally
10 gas is managed by sealing the top and sucking the gas out.
11 If you don't have a top on, geomembrane on top, you're
12 going to draw air in and poison the whole process and
13 create all kinds of additional problems. So what you're
14 doing about in terms of bioreactors is doing the very most
15 worst possible thing for those who have hopes of mankind
16 managing the climate change issue. So I think you need to
17 think about those issues as well. It will not save the
18 long-term problem, and it will create much more
19 catastrophic problems with climate change.

20 CHAIRPERSON MULÉ: Thank you.

21 Okay. Our next speaker, George Larson. And then
22 after that is Allen Abs.

23 MR. LARSON: Mr. Anderson is tough act to follow.

24 George Larson representing Waste Management. I
25 will be very brief. I just want to commend your staff for

1 having held such thorough and complete discussions to
2 invite the public sector and the public sector and
3 environmental organizations to participate in what's gone
4 on thus far.

5 As Mr. Levenson indicated in his comments, it is
6 a very complex issue, and we don't expect to have a
7 resolution to what are the best fits for each situation
8 that occurs in the state. And I think it's important if
9 there's an overriding consideration that whatever occurs
10 out of the process be cognizant of and recognize there are
11 site specific conditions that will govern how each site
12 might be cared for. I know that BKK makes a great poster
13 child, but it should not make the model for all landfills
14 in the state.

15 We just want on behalf of waste management again
16 to commit ourselves as we have intended to participate in
17 this process and bring industry's perspective. Thank you
18 very much.

19 CHAIRPERSON MULÉ: Thank you, George.

20 Next speaker, Allen Abs.

21 MR. ABS: I'll be brief as well. Madam Chair, my
22 name is Allen Abs. I'm Solid Waste Director for Tehama
23 County and also representing the Rural Counties
24 Environmental Services JPA.

25 I agree with what George said. This is a

1 complicated issue. There's not one size fits all solution
2 to this. One of the issues of concern however for the
3 rural counties including Tehama County is this possible
4 concept of a pooled fund. Tehama County and many of the
5 rural counties do have a pledge of revenue. Tehama County
6 also has a fully funded closure trust fund. We also have
7 a joint powers authority which is an enterprise fund that
8 runs the landfill. And I think over the last 10 or 15
9 years we've done a very good job of internalizing the
10 short-term and long-term costs of operating our landfill.

11 One of the things that concerns me not only for
12 Tehama County but for the rural county under this concept
13 of a pooled fund, we would be essentially be paying money
14 to support landfills that don't operate under a pledge of
15 revenue. And the rural counties' concern would be that
16 while we do have a pledge of revenue and are paying money
17 into this pooled fund, it would be money we'd never be
18 able to access because we do have pledge of revenue. And
19 obviously when the time came that we'd have to use
20 funding, we would have to fall back on pledge of revenue
21 and use our own funds without having access to the pooled
22 fund. Thank you.

23 CHAIRPERSON MULÉ: Very good point. Thank you
24 very much. Do we have any comments from the Board
25 members, Committee members?

1 Board Member Peace, Board Member Danzinger.

2 BOARD MEMBER DANZINGER: Can I just ask on 22, if
3 2296 is enacted, is what we would be doing first the same
4 as the first part of what staff is seeking from the
5 Committee? Is the rulemaking process the same? Does it
6 involve the same things, or does 2296 go beyond? I'm just
7 curious.

8 DEPUTY DIRECTOR LEVENSON: The last version I
9 have seen --

10 BOARD MEMBER DANZINGER: It is a more difficult
11 question than I thought, because the bill is changing.

12 DEPUTY DIRECTOR LEVENSON: But generally, yes.
13 The details might be a little different, but it generally
14 would require us to do a rulemaking that extends financial
15 assurance requirements, at least for the normal
16 postclosure maintenance.

17 BOARD MEMBER DANZINGER: I just wanted to quickly
18 commend staff for the incredible work they've done on this
19 issue. It goes back to '03. It shows that we were ahead
20 of the curve on this, and you've taken us to a very good
21 place right now. I mean, we always go above and beyond.
22 We generally don't start our process with a formal
23 rulemaking. We always start with an informal process
24 beforehand with collaboration and working groups and this
25 and that. We've done that, and we've got ourselves to a

1 point where, you know, if we move forward or if the bill
2 passes or whatever, we're ready to move forward. We're
3 ready to do something about this because we absolutely
4 need to. So thanks again for your work.

5 CHAIRPERSON MULÉ: Board Member Peace.

6 COMMITTEE MEMBER PEACE: I would also like to
7 commend staff for bringing this forward. Like Howard
8 said, it's timely. We've had discussions for these issues
9 at least the three years since I've been here. We've had
10 numerous workshops. The landfills are nearing their
11 postclosure maintenance period. We're already way behind
12 just for the normal postclosure costs. So like it says
13 there, the annual investment of \$18 million beginning in
14 2005 would be necessary to offset the future value of
15 unfunded postclosure maintenance costs accruing in the
16 next 50 years.

17 The Board already does have the authority to
18 require postclosure assurances beyond 30 years. We don't
19 want the taxpayers on the hook for these unfunded costs.
20 So thank you staff for bringing this forward. And I'm all
21 for supporting what you want to do number one and number
22 two -- number one, the rule making; and number two, the
23 study of financial assurance mechanisms. I guess what I
24 would even like to see more is there a way we can set some
25 firm time lines on this?

1 DEPUTY DIRECTOR LEVENSON: Thanks, Member Peace.
2 You know, that is something clearly -- I do want to say
3 that, you know, the folks involved, Richard and Garth,
4 Mike and Scott, this has all come out of their hide. It's
5 above and beyond the normal day-to-day stuff we've done.
6 That's why we've taken it systematically. And there is a
7 resource issue in terms of their ability, particularly
8 this guy to my left, running reg workshops, even informal
9 and doing all of the calculations and releases and
10 checking the assurance mechanisms and trust funds and so
11 on.

12 So being a bureaucrat here, I think this is
13 something we want to start if we get your direction.
14 We're going to have public workshops on the rulemaking
15 first where we flushed out not specific language but flush
16 these out in much more detail and get some feedback. And
17 then we'll end up having to come to you for 45-day comment
18 and approval to start that.

19 So I don't want to put a time frame on it if I
20 don't have to. You have my pledge that we are going to
21 pursue this. I'd like to start the public workshops, the
22 informal ones this fall, and be able to hopefully come to
23 you at the end of the year. But that may be pushing it,
24 given everything else. Certainly we also need to come
25 back to you with the idea of a study. So that's going to

1 take some time.

2 COMMITTEE MEMBER PEACE: The scope of work.

3 CHAIRPERSON MULÉ: Well --

4 COMMITTEE MEMBER PEACE: Thank you, Howard. And
5 thank you, Richard and Garth. Thank you, all.

6 CHAIRPERSON MULÉ: Well, I think it sounds like
7 we've got consensus from the Committee to move forward
8 with the direction that you recommended in the agenda
9 item.

10 What I would like to do though, Howard, is at the
11 Board meeting next week is if maybe we can just do a
12 miniature shortened presentation on this to the full Board
13 because this is in my opinion a major issue that we're
14 dealing with as a Board. So I would like our fellow Board
15 members fully briefed on this to the extent that we can at
16 the Board meeting basically just share with them our
17 opinion and direction on this. So if that's okay we can
18 do that next week.

19 DEPUTY DIRECTOR LEVENSON: We'd be happy to do
20 that. Should we shoot for something by staff?

21 CHAIRPERSON MULÉ: I would like for it to come
22 from staff. Richard, you did a great job today of laying
23 out the issues and again looking at basically the same
24 presentation.

25 DEPUTY DIRECTOR LEVENSON: The same basic

1 presentation.

2 CHAIRPERSON MULÉ: Just consolidate.

3 Very good. So it sounds like you've got your
4 direction. And our next item is if there are any other
5 comments from the public. Seeing none, this meeting is
6 adjourned.

7 (Thereupon the California Integrated Waste
8 Management Board, Board of Administration
9 Permitting and Enforcement Committee
10 adjourned at 1:06 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
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8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of July, 2006.

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